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Ontario. Legislative Assembly.  
Standing Committee on Resources  
Development  
Hearings.









A



STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
(WORKMEN'S COMPENSATION BOARD)

Wednesday April 26, 1972

Afternoon sitting





1 --- Upon resuming at 2:20 p.m.

2 THE CHAIRMAN: We will call this meeting  
3 to order and proceed where we left off this morning.  
4 I believe, Counsel, you were questioning the witness?

5 DAVID G. DECKER, Resumed:

6 MR. DONNELLY: Q. Witness, I am going to  
7 leave for a moment that matter we were discussing before  
8 the recess and there are other matters I wanted to speak  
9 to you about. First of all, Mr. MacDonald referred to  
10 mediating or conciliating both before and after the  
11 Cauley incident. Has he ever served as a mediator or  
12 a conciliator for you in connection with your relation-  
13 ship with other Board members?

14 A. I have talked with Mr. MacDonald  
15 about problems, but I wouldn't use the word "mediating"  
16 or "conciliating". He was the person to whom you went  
17 to talk to somebody about the agenda or something of this  
18 nature.

19 Q. You would go to him in those instances,  
20 would you?

21 A. Oh, yes.

22 Q. And not to have him intercede with  
23 Mr. Legge or anything, just to discuss business of the  
24 Board; is that what you are saying?

25 A. That's true, but I don't want to  
26 contradict Mr. MacDonald. Mr. MacDonald was there and  
27 we talked about a problem and he has said on occasion  
28 before this Committee, "I wish to talk to the chief about  
29 it or the Chairman," I don't know the words he used, but  
30 this isn't a suggestion that he wouldn't have done it





1 anyway but I was using him as a sounding board in many  
2 instances. But there was no such mediation or conciliation  
3 as far as I was concerned.

4 Q. And in order to deal with the Chairman  
5 it wasn't necessary for you to make representation through  
6 Mr. MacDonald I take it then?

7 A. The Chairman and I have been friends  
8 and colleagues for at least 15 years. There was nothing  
9 like that.

10 Q. Each within limited access to the  
11 other?

12 A. Sure. By all means. And a perfect  
13 social and normal relationship.

14 Q. Also, sir, at any time since your  
15 appointment as Vice-Chairman have you experienced any  
16 difficulty in obtaining access to the Minister of Labour  
17 from time to time?

18 A. No, sir, at no time. I would like  
19 to contradict the newspaper story about that.

20 Q. In what respect is that, sir?

21 A. Where I was quoted as having been to  
22 the Minister and having been denied further access or  
23 something of that line. I have never been denied; the  
24 office has been open, the door has been open at any time  
25 as far as I am concerned.

26 Q. Have you in fact seen the Minister  
27 on different occasions, sir?

28 A. Yes. I saw Mr. Bales on at least  
29 three occasions.

30 Q. Do you know of any rule or regulation



1 or understanding that only the Chairman of the Board or  
2 the General Manager should deal with the Minister?

3 A. No, there was no rule. Mr. Eberlee  
4 explained -- gave better explanation than I can and I  
5 think it was on this vein: That in most boards or  
6 commissions or big organizations of government the  
7 Deputy Minister or the head was the person who dealt with  
8 the Minister or the Executive Manager and I accepted this,  
9 it was in this atmosphere for many years and that is what  
10 has happened.

11 Q. Do I understand that you considered  
12 it normal that the Chairman of the Board should also have  
13 the authority to report to the Minister?

14 A. By all means. He was the Chairman  
15 and this was the procedure.

16 Q. You would also have a right to go your-  
17 self if you chose?

18 A. That right was never denied even by  
19 my suggestion or otherwise.

20 Q. It has also been a matter of some  
21 comment in these proceedings that the Chairman may have  
22 been described as abrupt or short with delegations or  
23 persons who came to the Board. Do you have any observation  
24 about that, sir?

25 A. I have never experienced anything of  
26 this nature. The Chairman is crisp in his dealings on  
27 business matters, but there was never anything suggestive  
28 of discourtesy or rudeness no matter how you interpret it.

29 Q. Or abbreviating meetings unnecessarily  
30 or anything of that nature?





1                   A.     I have never seen an abbreviated  
2     meeting.

3                   Q.     Now, sir, dealing with the topic of  
4     tape recording that we spoke of. Of your own knowledge  
5     do you know of incidents of tape recording in the Board  
6     since you came there other than in the normal course of  
7     business dictation and so on?

8                   A.     Generally, no. I know of two  
9     instances which were understood and agreed upon by the  
10    people who were interviewed. I was told -- I don't know  
11    is what I should say.

12                  Q.     Were you present for either of these?

13                  A.     No.

14                  Q.     Did you take part in either one of  
15    them, sir?

16                  A.     Neither one of them.

17                  Q.     Was any of them taken when your  
18    instruction or direction or with your knowledge at the  
19    time?

20                  A.     Yes, a Board decision on one instant  
21    only.

22                  Q.     Was that relevant to any criminal  
23    matter, sir, can you tell us or do you feel free to  
24    discuss that?

25                  A.     Yes, it was with respect to Mr. Legge's  
26    interview with the press and the person interviewed knew  
27    about it and it was straight recorded information.

28                  Q.     And was that an interview with a  
29    concealed recording device or otherwise?

30                  A.     No, not to my -- I mean the agreement



1 was that it would be by agreement that this was done and  
2 as I understand it this was so.

3 Q. An agreement in advance of the  
4 interview?

5 A. Between the two parties.

6 Q. And this was between Mr. Legge and  
7 some representative of the press, was it?

8 A. Right, that is correct.

9 Q. Do you know when that was, sir?

10 A. No, sir, I don't.

11 Q. And were you present for that?

12 A. No, I wasn't.

13 Q. Was it something you were told about  
14 afterwards?

15 A. In fact I can only assume that it was  
16 done to be technical about it. I know the instruction  
17 that was given or the decision made. I can't swear that  
18 it was ever done.

19 Q. It was done to the authority of a  
20 specific Board order to do this?

21 A. As a result of Board discussion.  
22 A lot of things we don't do by order, we simply agree on  
23 things and it is a Board decision.

24 Q. As far as you know was anything  
25 written or signed in this respect?

26 A. And this is why I could answer so  
27 definitely that I do not believe that there was any --  
28 there were any tape recorders used within the Board. I  
29 know from the Board level definitely not.

30 Q. Going back, sir, on this particular





1 incident that you do know about was done with the fore-  
2 knowledge and authority of the Board?

3 A. Right.

4 Q. Was that under some written authority  
5 of the Board do you know?

6 A. It could be recorded; I am not  
7 certain on that.

8 Q. But you were present in any event  
9 when it was discussed and authorized?

10 A. That's right.

11 Q. And was there some particular reason  
12 for doing it in that way, sir, do you recall?

13 A. I couldn't answer that at the moment.

14 Q. Do you know if at the time some  
15 adequate reason was explained to you so that you were in  
16 favour or otherwise, do you recall?

17 A. Will you excuse me a minute?

18 Will you please restate that question, sir?

19 Q. I was inquiring, sir, if -- are you  
20 ready, sir?

21 A. Yes.

22 Q. I was inquiring if since you were  
23 a Board member, knew the Board decision, do you recall  
24 if you were in agreement with the decision at the time?

25 A. Yes, sir, in full agreement.

26 Q. But you don't know recall specifically  
27 the reason that led to that agreement; is that what you  
28 are saying to me?

29 A. The reasons were general. It was  
30 an instance of an interview with a reporter and in order--



1 I suppose it is so that we could review what was said  
2 and what the Board was involved if it was involved, that  
3 was the reasoning. It was a straight business reasoning  
4 and it was made clear that both parties would -- there  
5 would be nothing hidden on it and I'm satisfied there  
6 wasn't.

7 Q. Are you free to tell us what the  
8 nature of the meeting or interview was about, sir, or is  
9 that a matter that you want to deal with?

10 A. No, I don't know the detail at all;  
11 in fact I didn't hear the tape.

12 Q. And do you know who represented the  
13 Board in the interview, what person it was that re-  
14 corded it?

15 A. Yes, the Chairman.

16 Q. Well I think you mentioned that there  
17 were two separate incidence of which you had knowledge;  
18 is that correct?

19 A. Not that I had knowledge. I had  
20 heard of another instant and I think it has been mentioned  
21 here before. You asked me if I knew of or had any  
22 knowledge of and that is my answer under oath.

23 Q. I see, and the other one you referred  
24 to, is that the one Mr. MacDonald told us about?

25 A. No, that was before my time.

26 Q. I just don't understand the second  
27 one you are referring to, sir.

28 A. Yes, I am sorry to consult here. The  
29 other one was an interview with an employee with a tape  
30 recorder on the table and it will be established -- I



1 can't establish it because I wasn't there -- that I wasn't  
2 there, but I have heard of it and you had asked me if  
3 I heard and, yes.

4 Q. So that there is another interview  
5 about which we can be told by other witnesses if we  
6 pursue the matter?

7 A. Two others that I know. I know to  
8 my knowledge there were no tape recordings used under  
9 any other circumstances or at any other time, to my  
10 knowledge.

11 Q. So apart from those two incidents you  
12 know of no knowledge of any tape recording of interviews  
13 or telephone calls or conversations?

14 A. That is correct.

15 Q. Does that relate to the question of  
16 tape recorders behind curtains, say, or tape recordings  
17 of reporters' calls, or tape recordings of members of  
18 Parliaments calls?

19 A. Yes, sir.

20 Q. Do you have any knowledge of tape  
21 recording in any of those instances?

22 A. No, if I were to say I don't believe  
23 it I know it's not evidence, but I have no ---

24 Q. Just dealing with your personal  
25 knowledge.

26 A. That's right.

27 Q. Now, can you help us, sir, about  
28 whether or not instructions were given about memos being  
29 kept to record the content of conversations amongst the  
30 Board members or the senior officials of the Board?





1 A. No, sir, no knowledge whatsoever.

2 Q. That practice was never carried on  
3 to your knowledge at any time; is that what you are  
4 saying?

5 A. That's right.

6 Q. Do you have any personal knowledge  
7 of any instructions to carry on that practice?

8 A. No personal knowledge.

9 Q. Now I rather have a feeling that you  
10 may hear of the newspaper article from sources other than  
11 myself, sir, but there is a statement in there about  
12 mistrust and hatred a short time after your arrival at  
13 the Board. Have you any comment you want to make about  
14 that, sir?

15 A. I read the article, sir; there is  
16 no foundation to my knowledge of hatred or mistrust. I  
17 had none, and I find it difficult to believe that there  
18 was any. I accept that we were mature people working  
19 together; we disagreed on subjects. If we didn't the  
20 Board would be a pretty weak organization if you will  
21 forgive a comment. None whatsoever.

22 Q. Just before I finish, there are two  
23 matters that I want to go back to, and again I may be  
24 repeating. You spoke of some dissatisfaction on the  
25 basis that you hadn't participated as fully as you had  
26 hoped and I was left with the impression that that was  
27 in the administrative field rather than the adjudicative  
28 field; is that correct, sir?

29 A. That's right, sir.

30 Q. And I rather was left with the



1 impression that you felt you weren't as fully informed  
2 as you may have been or should have been as the Vice-  
3 Chairman?

4 A. That's right.

5 Q. But these are matters you think that  
6 can be corrected within the confines of the Board?

7 A. That's right. I think -- or I tried  
8 to explain why I thought that was so. I was comparatively  
9 new to the Board and while I felt that I knew enough to  
10 participate in all things I recognize that there is  
11 established procedure; there is organization; and I had  
12 no strong feelings to the point of hostility or anything  
13 of this nature and today I say that this is gradually  
14 at least satisfying me. These were personal, sir,  
15 feelings.

16 Q. May I take it that this area that  
17 we are dealing with in your opinion doesn't require some  
18 outside intervention from some source other than the  
19 Board; is that what you are talking about?

20 A. I'm glad you asked that question,  
21 sir. I am of a strong conviction that there is nothing  
22 that can't be dealt with and the refinements which need  
23 to be made and this organization and any organization  
24 can be made. If I didn't think that I wouldn't have  
25 much faith in myself.

26 Q. Before I leave I want to go back to  
27 that phraseology you used about the paternalism. I  
28 really was left with the feeling, sir, that I didn't  
29 come to grasp with what you were trying to tell me  
30 there.





1                   A.     What I was trying to tell you, sir,  
2     first of all I was trying to say that I can't pinpoint  
3     the source or reasons for my dissatisfaction. Having  
4     my background in social welfare and trying to deal with  
5     people I tried to analyze it and my analysis was -- this  
6     may be wrong -- that the paternal instincts, that is,  
7     the individual responsibility was too heavy on Mr.  
8     MacDonald. This is exactly what I said or tried to say.  
9     Mr. MacDonald has a terrific load and, as he said, he  
10    communicated directly with the Chairman which was a  
11    natural process and that is understood and my feeling  
12    was that in this type of a climate the Board members are  
13    not participating to the full; they are different types  
14    of administration and it was a personal feeling; so  
15    this quite not fatherly, I felt the Board got away from  
16    that, but some of the carry-over from the philosophy  
17    of the fatherly or the paternal type of administration  
18    still existed in the Board. I repeat, that was a  
19    personal conviction and I still feel this way. I don't  
20    think it is bad or damaging, it is something that if  
21    recognized can be dealt with.

22                  Q.     That leaves me again and I'm almost  
23    finished, I don't like to keep you, it leaves me with  
24    the impression that you may have thought the Board was  
25    insulated either above by Mr. Legge or below by Mr.  
26    MacDonald from its full scope of activity. Am I right  
27    in thinking that or is that what you are saying?  
28  
29  
30



1 A. Yes.

2 Q. And that is something you think you  
3 can within the competence of the Board, feel you can change?

4 A. I am sure.

5 Q. Just one last question, one of the  
6 members has asked me if you can produce some kind of graphic  
7 illustration showing the change prior to 1965 and subsequent  
8 to 1965; is that available now?

9 A. I cannot prior to '65.

10 Q. It is being prepared?

11 MR. AUSTIN: Yes, it is being prepared. It  
12 is not available immediately.

13 MR. DONNELLY: Thank you; thank you,  
14 Mr. Chairman.

15 THE CHAIRMAN: Mr. Deans?

16 MR. DEANS: Thank you, Mr. Chairman.

17 I am rather disjointed in my thoughts of what  
18 I wanted to ask you, Mr. Decker. I am going to begin, if  
19 you could tell me what you consider to be the main  
20 differences in the responsibility that the chairman of the  
21 Board has from the other members of the Board?

22 THE WITNESS: There are no differences,  
23 Mr. Deans, in responsibility under the Act and there are no  
24 differences in practice, although I have to admit that the  
25 chairman of the Board is carrying a much heavier load and I  
26 hope that I made this -- some clarity to this in what I  
27 said. The Chairman of the Board has been there for seven  
28 years at least so the Board has been his responsibility so  
29 it is natural that he get more calls from you gentlemen here  
30 and from industry and so on; does that answer?



1 MR. DEANS: He doesn't get any more from me  
2 than you, sir, I assure you.

3 I want to understand now. What you are saying  
4 is that the additional work, if it is to be called that,  
5 that Mr. Legge does in comparison to the work done by yourself  
6 and Mr. Hamilton is not because of any additional legislative  
7 responsibility or any additional responsibility as a result  
8 of legislative action, or is it -- ~~it~~ is not either an  
9 additional responsibility, an actual application of the  
10 working of the Board, it is something he does out of years  
11 of being in charge.

12 Do you consider that you have as much say in  
13 the Board as Mr. Hamilton and Mr. Legge?

14 THE WITNESS: Yes.

15 MR. DEANS: Do you consider you play as much  
16 a role in the administrative matters of the Board as  
17 Mr. Hamilton and Mr. Legge?

18 THE WITNESS: As much as Mr. Hamilton, yes,  
19 and I consider that I am becoming or coming to a position  
20 where I am playing more and more of a role in the not too  
21 distant future, an equal role.

22 MR. DEANS: Now could you explain to me, sir,  
23 how you see the operation developing in order that you would  
24 be able to play an equal role. Would that require  
25 Mr. MacDonald to report to you everything that he reports  
26 to Mr. Legge and in turn, to report to Mr. Hamilton everything  
27 that he reports to you or Mr. Legge, and to Mr. Legge  
28 similarly? In other words, do you see Mr. MacDonald having  
29 to report to each one of you on everything that he reports?

30 THE WITNESS: No, that would be humanly





1 impossible. Mr. MacDonald has so many things to do, so many  
2 calls upon him that he couldn't humanly consult Mr. Hamilton  
3 and Mr. Legge and me. But perhaps the suggestion you imply  
4 with your question would be the executive meetings might  
5 become more and more a forum. They are a forum so I would  
6 suggest that that is an avenue through which more and more  
7 of what might be considered not so important things in the  
8 past, could be handled and the Board could be informed.

9 MR. DEANS: I want to get an indication from  
10 you, Mr. Decker: what do you see the Board's function as  
11 being? It obviously -- let me put some ideas and you can  
12 tell me which ones are most suited so I can get what I am  
13 after -- would you think that the Board ought to deal in the  
14 day to day administration of the Workmen's Compensation  
15 Board or do you feel the Board should reserve itself more  
16 for matters of policy on major decisions and do you think  
17 it is sensible that there ought to be this continuous day to  
18 day discussion between -- we will say Mr. Hamilton or it  
19 may well be some other head of another department and the  
20 members of the Board on things that are administrative in  
21 nature?

22 THE WITNESS: I believe that any person who  
23 has become a member of a board has to be sensitive to the  
24 whole organization and because of my background, perhaps,  
25 I believe sensitive to personnel and to what they are  
26 thinking and so on. This is not shared perhaps by some of  
27 the more modern administrators. Now Mr. Hamilton and I  
28 hadn't met each other two years ago, so a year and a half  
29 ago, I would not have discussed with Mr. Hamilton as  
30 informally as I would today any concern I had for relationship



1 with business or some problem which came up in adjudication  
2 and so on, but I believe that that is what the Board's  
3 function is. But that is only a minimal part of the function.  
4 We are responsible for investments of large sums of money;  
5 we are responsible for administration which is big business;  
6 and these are factors which have to be attended to. Now, we  
7 may develop a system where individually we can handle some  
8 of these things as the basic work of these things and then  
9 finally consult each other. I think that is the ideal and  
10 that is what we are aiming at, or I believe that.

11 MR. DEANS: What you are suggesting perhaps  
12 is the division of responsibility, that you may be responsible  
13 for certain areas, that Mr. Hamilton may be responsible for  
14 certain areas and that Mr. Legge may be responsible for certain  
15 areas, and that you would come together, one to make recom-  
16 mendations to the others?

17 THE WITNESS: Yes, that is the method that is  
18 used in administration or type of administration and I think  
19 it has worked.

20 MR. DEANS: Have you made this kind of a  
21 suggestion yet to the Board?

22 THE WITNESS: I can't be definite that I made  
23 any suggestion, that is, specific suggestion. I think we  
24 have implied through conversations ideas we think should be  
25 dealt with and this is why I keep emphasizing that progress  
26 is being made.

27 MR. DEANS: Have you made many suggestions  
28 in terms of changes to the Board?

29 THE WITNESS: I don't know what you may mean  
30 by "many". I mean I have been there two years and if at my



1 level I could count suggestions I have made, it wouldn't  
2 indicate that I have been very active.

3 MR. DEANS: I wasn't thinking of that.

4 THE WITNESS: I don't mean, sir, to make  
5 light of your question; in other words, I can't remember.

6 MR. DEANS: What I am trying to get at,  
7 Mr. Decker, and I won't pursue it with you, but I want to  
8 find out from you is how do you make the suggestion, what  
9 happens, do you simply appear at a Board meeting and say,  
10 "Look, I have been thinking about this and I might make a  
11 change" or do you talk it over with Mr. Hamilton and  
12 Mr. Legge in advance and see what their general feeling is  
13 or do you talk it over with Mr. MacDonald? Who is it that  
14 you talk with in order to get some idea of the sort of  
15 acceptance of a decision or the acceptance of suggestions?

16 THE WITNESS: Well, Mr. MacDonald is a most  
17 informed person on that Board. I don't think anybody will  
18 deny that. He knows the Board, he knows it within, so if  
19 I want information or want to make a suggestion, it is normal  
20 that I would go and talk with him informally. Mr. Hamilton  
21 and I talk; many suggestions come up after we have heard some  
22 person make a representation on the behalf of a client. If  
23 there is some problem comes up that is the forum for discussion.  
24 We have our regular meetings, principal officers' meetings  
25 which are usually on Friday; they raise questions which  
26 involve problems and then the Board deals with these problems.  
27 We deal with them in consultation with the principal officers  
28 who are responsible for their separate sections of the Board.

29 MR. DEANS: Do you find Mr. Legge particularly  
30 amenable to change?





1 THE WITNESS: I think that is pretty subjective,  
2 sir.

3 MR. DEANS: Does he openly welcome your  
4 suggestions of change, you know, does he pat you on the back  
5 and say, "It's a damn good idea; we will take a look at it."

6 THE WITNESS: We are all different. I think  
7 the picture painted of Mr. Legge is a pretty true one. I  
8 state without any qualification, he is one of the most able  
9 persons I have ever met.

10 MR. DEANS: I could draw some comparisons and  
11 I won't. There are a lot of able people.

12 THE WITNESS: But Mr. Legge is amenable to  
13 change but I think that ---

14 MR. DEANS: Does he encourage it? Did he  
15 encourage you when you became a member of the Board to,  
16 "Come forward with your ideas, and get them all into the pot  
17 and we will sort them out and if we can improve this Board  
18 together we will do that." Is that the idea that you got  
19 when you got there?

20 THE WITNESS: Mr. Legge and I have been  
21 exchanging ideas for about 15 years.

22 MR. DEANS: I have been exchanging ideas  
23 with the Premier for four years and I haven't made much  
24 progress.

25 THE WITNESS: Yes, I think he would welcome  
26 a change or suggest a change or discussion of a change which  
27 he could accept was reasonable. And I think that is the  
28 right to be frank about it. I may not agree with it, or  
29 not feel happy about it, but if a leader doesn't -- if he  
30 doesn't decide what he wants to discuss as practical or



1 impractical, he would spend a lot of his time in irrelevancies,  
2 wouldn't he?

3 MR. DEANS: Mr. Decker, you on occasion today,  
4 in making your testimony, you are giving the testimony, you  
5 refer to the "captain," the "leader," and on one occasion  
6 I recall the word "chief."

7 THE WITNESS: I am not too particular in my  
8 terminology, sir, that is one of my weaknesses.

9 MR. DEANS: No, I think, in fact, the words  
10 you used in your own mind paint a pretty clear picture. You  
11 are talking about a person that is sort of the ultimate  
12 decision maker.

13 THE WITNESS: I would like to correct it on  
14 that, sir. I salute the elevator operator in the morning,  
15 "Good morning," but that's no indication that I recognize  
16 him as having had any military association. I use this  
17 terminology.

18 MR. DEANS: I wasn't even referring to military  
19 association, I am sorry if I left that impression. But you  
20 seem to leave the impression that you consider the Chairman  
21 of the Board to have some power beyond the power that you  
22 have, that if he -- I mean, as you say, if the leader doesn't  
23 like things, well, you could tie up a lot of his time in  
24 getting involved in these things. But you also try to leave  
25 the impression that the Board are equal. Now you can't have  
26 a leader among equals, there is either one person -- you  
27 either consider Mr. Legge the ultimate decision maker, that  
28 he makes the final decision -- is that true, does in fact  
29 Mr. Legge make the final decision?

30 THE WITNESS: The Act answers your question,



1 sir. The Act says that there shall be three members of the  
2 Board, one of whom shall be the chairman. Now there isn't  
3 much explanation there, but the next section is explanatory  
4 The vice-chairman shall act -- I am not quoting verbatim --  
5 in place of the chairman and any decision made by him, so  
6 there is an implication that the chairman is in a position  
7 -- and I accept him as the leader of that Board.

8 MR. DEANS: The vice-chairman, sir, what is  
9 says is, "In the absence of the chairman or in case  
10 of his inability to act or if there is a  
11 vacancy in the office, the vice-chairman  
12 may act as and has all the powers of the  
13 chairman."

14 That means he can call the meetings as the chairman, he will  
15 sit in the chair of the meetings.

16 THE WITNESS: Will you please read the rest?

17 MR. DEANS: That's all. That is all it says,  
18 sir. That is the entire section, 56, "When vice-chairman  
19 may act..." on page 28 and it doesn't delegate any particularly  
20 special responsibilities.

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1 THE WITNESS: 58, "Where the vice-chairman  
2 appears to have acted for or instead  
3 of the chairman, it shall be presumed  
4 conclusively that he so acted for one  
5 of the reasons mentioned in section  
6 56."

7 So "action", I am giving you my interpretation.

8 MR. DEANS: Let me suggest to you that what  
9 that means is that it shall be presumed that he acted  
10 for one of the reasons and one of those reasons being  
11 inability to act or a vacancy in office.

12 THE WITNESS: By the way, I am not quoting  
13 to show my authority, but to illustrate the Chairman  
14 to me is the leader of the Board, in the words I used  
15 before he is the Chairman of the Board, somebody has  
16 to head it up, somebody has to assume the responsibility.

17 MR. DEANS: And you assume he has extra-  
18 ordinary powers over and above those of the other Board  
19 members?

20 THE WITNESS: No, sir, I don't accept  
21 that he has extraordinary powers in policy making or in  
22 directing the policies on the program of the Board.

23 MR. DEANS: Well then, what power does he  
24 have? If he doesn't -- you say to me that he is the  
25 leader and you infer by one of your statements that in  
26 fact he -- I forget the exact words now, something to  
27 the effect that he has to be able to listen and move on  
28 sort of thing, I forget exactly what you said, but I  
29 have got the general tone of it, and you refer to the  
30 Act to point out that the Chairman has powers beyond



1 those of the members which are not spelled out in the  
2 Act; you obviously feel that the Chairman of the Board  
3 has the power or has been delegated powers beyond the  
4 powers of the members, powers to make decisions, the  
5 final authority if you like; is that what you mean by it?

6 THE WITNESS: No, I am sorry if I have  
7 conveyed that.

8 MR. DEANS: Well, tell me again what you  
9 think the Chairman's job is.

10 THE WITNESS: I feel in any organization,  
11 big or small, particularly in a large one like this  
12 there must be someone -- I think perhaps I could illus-  
13 trate it -- Mr. Chairman, you forgive me--there must be  
14 a leader of a party, there must be a prime minister.  
15 Now, on the Board perhaps it is not quite that spectacular  
16 in position but there is somebody -- my interpretation  
17 -- who is responsible for calling the meeting, respon-  
18 sible for answering industry if they have a complaint;  
19 they write to somebody, that person is the Chairman.  
20 They couldn't write Messrs. Decker -- Hamilton, Decker  
21 and Legge. I think perhaps this illustrates what I had  
22 in mind. Other than that there is no distinction in  
23 my mind.

24 MR. DEANS: Let me ask you then in those  
25 tiny areas that you mentioned, and I want to say to you  
26 as far as people corresponding with the Board is concern-  
27 ed about Board matters, that while they may write to  
28 the Chairman it is a matter for which policy has not  
29 yet been decided then it's the responsibility of the  
30 Board to set the policy?



1 THE WITNESS: Right.

2 MR. DEANS: If it's a matter that policy  
3 has been decided upon it's a simple matter of relaying  
4 the policy to the person. Do you consider that those  
5 tasks are sufficiently onerous to justify the Chairman  
6 not taking part to such an extent in the other matters  
7 like adjudication?

8 THE WITNESS: I have accepted that a  
9 chairman -- in fact, I have had demonstrated in many,  
10 many instances where the Chairman was slated as one of  
11 the three members to sit on a case. Now, when the  
12 legal counsel comes, he is going to be there at 10:00  
13 o'clock, the client is there, these people want to be  
14 heard. In the meantime the Chairman -- and please don't  
15 misinterpret -- I don't want a misinterpretation here --  
16 the Minister's office may call and say, "Something has  
17 come up, we want to talk with you." The Minister knows  
18 what it is all about so Mr. Legge has to excuse himself.  
19 Now, under the Act Mr. Hamilton and I are empowered to  
20 hear that case and we have had no complaints so far, I  
21 haven't, so in that instance, Mr. Deans, I can't say if  
22 it is damage or injury to the workman is inferred here.  
23 I would say there hasn't been any in my knowledge. I  
24 hope I am not misinterpreting you.

25 MR. DEANS: No, I am quite convinced there  
26 is no damage to the workman to have you and Mr. Hamilton  
27 sit on the Board or to have you and Mr. Hamilton and  
28 Mr. Legge. All I'm saying to you is that -- you see,  
29 the things that you cite, if you will forgive me, sir,  
30 the things you cite as being examples of what you believe,



1 the calls from industry, the possible call from the  
2 Minister to come up and have a chat about things or --  
3 really would occur so infrequently and certainly wouldn't  
4 tie the Board -- the Chairman of the Board up for such  
5 lengths of time that he would be away from hearings for,  
6 you know, days on end -- he may be gone for a morning  
7 or an hour. I know Ministers well enough to know that  
8 they don't sit around to chat with chairmans of boards  
9 or anyone else for days, they may talk with you for 15  
10 minutes, perhaps 20 minutes, an hour at the very most.  
11 So that those kinds of things don't take up the whole  
12 day. Now, do you think that the work that is directly  
13 related to the Board operations, the administrative work  
14 that is done by Mr. Legge, that is not done by yourself  
15 or Mr. Hamilton is of sufficient quantity to necessitate  
16 the Chairman being absent from the Board for adjudication  
17 purposes on a regular basis?

18 THE WITNESS: The answer is no. I do not  
19 think that direct Board work takes the Chairman away.

20 MR. DEANS: I will get back to that  
21 question in a moment. Do you think that the delivering  
22 of papers and the preparation of "major", I believe is  
23 the word, and minor papers for presentation to various  
24 organizations around the world, the belonging to and  
25 participating in organizations that have a direct and  
26 sometimes obscure relationship with <sup>the</sup> Workmen's Compensation  
27 Board general direction purpose; do you think that those  
28 functions that Mr. Legge is involved in are of sufficient  
29 importance to the Workmen's Compensation Board of  
30 Ontario to justify his absence from adjudication hearings





1 to be in attendance or his prolonged absences from  
2 adjudication hearings, prolonged meaning -- I don't  
3 mean prolonged meaning months on end, but on a number  
4 of absences, frequent absences. Do you consider them  
5 to be of sufficient importance to the Workmen's Compensat-  
6 ion Board of Ontario and to its ability to operate on  
7 behalf of the industry and workers?

8 THE WITNESS: As an individual I wouldn't  
9 put emphasis personally on some of these things that  
10 Mr. Legge considers of importance, but if you will  
11 forgive me ---

12 MR. DEANS: May I ask you a question and  
13 then explain?

14 THE WITNESS: I think I will answer your  
15 question and I don't want to be dramatic about this.  
16 Last year I attended the first international conference  
17 since I have been on the Board, it was held in Boston.  
18 There were hundreds of people there from workmen's  
19 compensation boards all over America and they are having  
20 a real struggle as to what they are going to do with  
21 their system. And as a Canadian, and I have been --  
22 in your questioning and many suggestions I have made  
23 that I have been critical -- I admit I am critical of  
24 the Board, but despite all the things that I have thought,  
25 and I have answered your questions on all of them, Mr.  
26 Legge would make any Canadian proud to be a Canadian,  
27 and Ontario had headlines because its Chairman had  
28 played such an important part in this conference; the  
29 papers he gave, and he was subject to all kinds of  
30 questioning following his paper, the applause was un-



1 believable. The headlines in the paper there, papers  
2 lauded him for that type of contribution. Now if I were  
3 trying to answer your question directly in saying, no,  
4 I don't believe, I would have to say in relation to that  
5 instance that there are some instances where Mr. Legge  
6 is away on conferences. He gave a speech in Edinburgh  
7 about a year ago. Now, the Boards of the United Kingdom  
8 must have thought it was important or they wouldn't have  
9 asked him. Now my concept of the Board is wouldn't agree  
10 on that. Now my answer has to be a qualified one.

11 MR. DEANS: I can understand what you are  
12 saying and I think that there are certainly occasions  
13 when the Chairman or the Vice-Chairman or the Commission-  
14 er of the Board should be away speaking.

15 THE WITNESS: Sir, a lot of time -- will  
16 you excuse me for a moment? A great deal of Mr. Legge's  
17 time since I have been on the Board has been taken, and  
18 I don't see how he could do otherwise, as an indirect  
19 consultant with the boards of America or the inter-  
20 national -- for the President's Committee. Now, maybe  
21 it is not direct service to the people of Ontario, but  
22 indirectly it is a service and I don't see how he could  
23 say no.

24 MR. DEANS: A couple of other questions:  
25 Is it by Board decision that the members of the Board  
26 travel to present papers and to speak at functions?

27 THE WITNESS: It is Board policy, yes, sir.

28 MR. DEANS: Is it by decision in each  
29 individual instance?

30 THE WITNESS: Yes, it is now.



1 MR. DEANS: It is?

2 THE WITNESS: Yes.

3 MR. DEANS: Do you object frequently to  
4 the leaving of the Board officers of Mr. Legge?

5 THE WITNESS: Object is not the word, sir,  
6 but I can assure you that when a Board member has been  
7 invited to speak somewhere or participate in some  
8 conference, before the Board gives approval, and it is  
9 a minute of approval by the Board given, we have to know  
10 what the itinerary is, the purpose of the visit, what  
11 benefits will be accrued to the Board, and after we have  
12 discussed the reasons given, whether it is by the  
13 Executive Manager or the Board member who is asked to  
14 go to the area, approval is given. So it is examined  
15 in detail.

16 MR. DEANS: Have you ever turned one down?

17 THE WITNESS: This might be interpreted  
18 as a complaint. I haven't been personally asked on my  
19 own part to speak in enough areas to turn them down.

20 MR. DEANS: No, but have you ever as a  
21 Board turned down a suggested trip to some place for  
22 any one of the Board members as a Board?

23 Have you ever said, "No, that doesn't seem  
24 important enough, you should be here instead, we don't  
25 think you should go."

26 THE WITNESS: Yes, we have made decisions  
27 that a certain invitation cannot be attended to or  
28 accepted at this particular time which means that you  
29 couldn't go. Now that doesn't mean that you can't go.

30 THE CHAIRMAN: I was going to interject



1 at this moment. We have spent a considerable amount of  
2 time and in quite some depth with regard to the  
3 Chairman's absences from the Board and participating in  
4 conferences in the United States and other parts of the  
5 world and I was going to ask you, Mr. Decker, it is a  
6 point that hasn't troubled me to any great extent, I was  
7 going to ask you if you feel that Mr. Legge's participat-  
8 ion in these conferences, whether they be in the U.S.  
9 or other countries, would tend for bettering conditions  
10 for injured workmen all over the world in fact?

11 What would your opinion be on that?

12 THE WITNESS: Unqualifiedly, yes. We  
13 have representatives at the Board now from Zambia.  
14 They are there because of knowledge gained from this  
15 Board's participation at other conferences and seminars.  
16 Now I couldn't say Mr. Legge's papers did it, I'm not  
17 suggesting that. So the answer to your question is yes,  
18 I can see real benefit accrued especially by the  
19 developing nations and by the United States. They are  
20 looking to us right now for some information to help  
21 them.

22 THE CHAIRMAN: Then you would say then  
23 Ontario and Canada are making a valuable contribution  
24 in this area?

25 THE WITNESS: I don't think there is any  
26 doubt about it.

27 THE CHAIRMAN: Through Mr. Legge's  
28 appearances or participation?

29 THE WITNESS: I would say that, yes.

30 THE CHAIRMAN: Thank you.





1 MR. DEANS: Let me just ask you, sir, you  
2 mentioned -- I want to go back to your paternal administ-  
3 rative structure I believe is what you used. I got the  
4 impression that you felt that there was a certain feeling  
5 of beholding on the part of certain individuals in the  
6 Board; was this true, that they felt somehow grateful  
7 or thankful perhaps would be a better word for the fact  
8 that they are there? Does that fit in with your ---

9 THE WITNESS: No, that is not ---

10 MR. DEANS: That is not what you had in  
11 mind?

12 THE WITNESS: Perhaps I confused it to try  
13 and make certain, but that was not the interpretation  
14 to be had from it.

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1 MR. DEANS: You mentioned at the beginning  
2 this paternalistic administrative structure, you mentioned  
3 Mr. MacDonald having a tremendous amount of responsibility.  
4 Without carrying on, I really don't fully understand exactly  
5 what it is -- I have tried, I am sorry, I have really tried,  
6 but I don't quite understand exactly what you mean by the  
7 use of the word.

8 THE WITNESS: I may be using an academic  
9 illustration here but the forms of government that we have  
10 had in our society have been many. One form of government,  
11 and it is still -- there are still remnants of it in some  
12 of our governments was that you centralized administration  
13 which have the semblance of over-protection of people, of  
14 staff and so on; there was a time that it was the father  
15 idea that you got your job, because of me, and so on. There  
16 is no suggestion in this at all. But any studies that have  
17 been done in recent years, and by the way, this has happened  
18 at the federal level as well as the provincial level, with  
19 an effort to eliminate any dangers whatsoever of misinter-  
20 pretation or of that there is this imposing or saying what  
21 is good for you to the employee and this has come about in  
22 recent years, particularly where employees have organized  
23 and have expressed their opinions through the different  
24 departments, through the main administration. So this is  
25 what I was saying, Mr. Deans, Mr. MacDonald clearly stated  
26 before this Committee his tremendous responsibility and it  
27 was my feeling, and this is what I said, that this was too  
28 heavy a load for one man and too much responsibility and,  
29 consequently, there were inherent dangers. I can't say it  
30 in any better way. This is what I call the remnants of the



1 paternal system or what could be interpreted of the remnants  
2 of the paternal system. I would say there is no paternal  
3 system but from it can come misinterpretations which lead  
4 to uncertainties and so on, and I think personally this is  
5 an explanation of a lot of the symptoms that have been talked  
6 about and seen. Now this is not condemnation. I am not  
7 suggesting that, but you asked -- I think the counsel asked,  
8 "What is your concept of cause?"

9 MR. DEANS: Thank you.

10 THE CHAIRMAN: Mr. Gaunt?

11 MR. GAUNT: Mr. Chairman, I would like to  
12 ask Mr. Decker, if he wouldn't mind casting his mind back  
13 to March of 1970 when you were first appointed to the Board.  
14 What did you do shortly after you came to the Board; was  
15 there anything specific that you did by way of trying to  
16 meet the people, learn the procedures, this type of thing?

17 THE WITNESS: My introduction to the Board  
18 is an accepted one by the Board. I was introduced to every  
19 department -- it is a big organization, as you know -- I  
20 met people and then subsequent to that, I made it my task  
21 to go back and meet a lot of these people and talk with them  
22 and so on. If that is your question, this is what I did.  
23 This is my way of doing things; I like to know people, I  
24 like to know what they do. This can be dangerous from an  
25 administrative point of view but it is my method and that's  
26 what I did.

27 MR. GAUNT: These people were department  
28 heads and principal officers of the Board?

29 THE WITNESS: Yes, and the staff, drivers,  
30 janitors, it doesn't matter. I try to get to know people



1 as individuals.

2 MR. GAUNT: Was it indicated to you in the  
3 early months that you should cease this type of activity?

4 THE WITNESS: No, sir, it was never indicated  
5 that I should. I don't think I would tolerate such an  
6 indication.

7 MR. GAUNT: You would have reacted rather  
8 strongly had that suggestion been made to you directly?

9 THE WITNESS: I would have very much, sir.

10 MR. GAUNT: Do you suspect that it was made  
11 to some of the people with whom you talked, that they  
12 shouldn't be discussing your appointment or your activities  
13 with you in this fashion?

14 THE WITNESS: I have no concrete information  
15 that that was the case.

16 MR. GAUNT: If I may go back to what you said  
17 earlier -- perhaps I misunderstood, but I had -- I had some  
18 difficulty in putting it together, if I can phrase it in that  
19 fashion. For instance, you mention that you didn't have  
20 any differences with Mr. Legge, and yet you have indicated  
21 subsequent to that that he -- well I think the phrase in  
22 answer to counsel's question was "insulated at the top",  
23 that the organization was paternalistic and that by its  
24 very nature breeds a certain amount of fear and distrust.  
25 I just can't quite understand what you mean by the fact that  
26 you had no differences with Mr. Legge, or was it just a  
27 matter of trying to resolve some of these problems that you  
28 moved into or dissatisfaction or could you be more explicit  
29 on that? I just can't quite understand

30 THE WITNESS: I did not intend to say that I





1 had no differences with Mr. Legge. I think I did say that  
2 there are differences, differences of opinions, and I think  
3 I mentioned with Mr. Hamilton, in discussions we differ, we  
4 differ to a degree. Now, with Mr. Legge, I have had many  
5 differences of opinion, but what I was trying to say I did  
6 not have, and I think I did say, I did not have hostility  
7 or any enmity or quarrel or as suggested in the newspaper  
8 article.

9 MR. GAUNT: I see.

10 THE WITNESS: Sure we differed. Mr. Legge  
11 and I have been differing for 15 years. I am on the one  
12 side of the table and he is on the other and I have been  
13 on the other for 12 or 13 years, so we differ. But we differ  
14 sometimes to agree and this is the whole exercise, to work  
15 out something so that we can agree most of the time.

16 MR. GAUNT: So what you are really saying to  
17 me, and I want you to tell me if my interpretation is  
18 accurate or not, your differences centre around differences  
19 of opinion and differences which arise at Board meetings,  
20 but these differences are really not carried beyond that  
21 stage?

22 THE WITNESS: That is right, sir. This is  
23 why, and perhaps I have confused everybody in this paternal-  
24 istic reference; it is a difference in philosophy, a  
25 difference in feelings towards people and perhaps a difference  
26 in sensitivity to what is important. Now that doesn't say  
27 my way is right, that was the difference, but socially as  
28 individuals, there is no suggestion that there is a conflict.

29 MR. GAUNT: I notice that as far as Mr. Legge's  
30 absences are concerned, the days on which he is away from the



1 Board, you mentioned that you weren't concerned that  
2 Mr. Legge was away so much and then I think shortly after  
3 that, you mentioned that you would like to see him away  
4 less.

5 THE WITNESS: That's right. I don't think  
6 that is a contradiction. This is not a concern of mine  
7 because I am not unhappy about a two-man Board where it is  
8 necessary. We have a three-man Board most times because  
9 we bring an ad hoc man in, but I have not contradicted that  
10 Mr. Legge was away and away for a considerable period of  
11 time each year.

12 MR. GAUNT: But do you feel that this has  
13 hampered the functioning the Board?

14 THE WITNESS: No, I don't think it has and  
15 this doesn't say that Mr. Legge's presence wouldn't have  
16 contributed something important, but the Board functions  
17 can be carried on in the absence of any one member of the  
18 Board and it can be carried on in the absence of the chairman  
19 of the Board.

20 MR. GAUNT: At one point I got the impression  
21 that the area of dissatisfaction about which you spoke  
22 this morning really centered around your role as Vice-  
23 Chairman, the fact that you saw your role as Vice-Chairman  
24 in one light and apparently the Chairman saw it in another  
25 light; and then you moved on and you indicated that the  
26 organization as such was somewhat paternalistic and this  
27 did cause problems. Is that your primary concern or is  
28 your primary concern still the area of your role as Vice-  
29 Chairman?

30 THE WITNESS: No. I would like to take your



1 first point: I am not concerned about the area of my rule  
2 as Vice-Chairman, that was not a disagreement.

3 MR. GAUNT: But it was an area of dissatisfaction?

4 THE WITNESS: Dissatisfaction. My role as a  
5 Board member in the corporate administrative structure was a  
6 matter of concern and I think I said that. Now, my concern  
7 mainly, in fact, almost thoroughly, was on the basis of  
8 involvement and participation -- as I said earlier, perhaps  
9 I was in a hurry, but participation in the full and overall  
10 functions of the Board. This was the area of concern to me  
11 which inference has been drawn to.

12 MR. GAUNT: So as far as the organizational  
13 structure is concerned, that is of concern to you but it is  
14 not of paramount concern or overriding concern?

15 THE WITNESS: No, it was not that which caused  
16 me concern. Eventually that would fall into place, I knew  
17 that, or I felt it would and I think it is or has and is  
18 falling into place.

19 MR. GAUNT: Would this account, in your  
20 view, for the long length of time in order to change the  
21 organizational pattern or structure, to use your term?

22 THE WITNESS: Yes. My experience has been  
23 that which is good or has been considered good is not easily  
24 changed, no matter how an individual within that organization  
25 may feel. And I think and I know that things were going  
26 well and even though I expected possibly that my ideas should  
27 be accepted because they were mine -- perhaps a bit of ego  
28 time was what was required and I think this has proven  
29 itself in the present happenings.

30 MR. GAUNT: Would you say that this particular



1 structure to which you make reference hasn't been given  
2 the attention that you had expected by the Board and has  
3 taken a longer time to remove than would have been the  
4 ordinary case?

5 THE WITNESS: Well, the answers have not  
6 perhaps come as fast as I would like to have seen them  
7 come or I wouldn't have been answering the way I am  
8 answering.

9 MR. GAUNT: Do you consider the reason for  
10 that the lack of emphasis which the Board has been giving  
11 to the problem?

12 THE WITNESS: You see, the Board is the  
13 three of us and we are two new members of the Board and the  
14 two new members could in administration be concerned and  
15 have a feeling that they should have been in there from  
16 day one, but they, of themselves, can change a program or  
17 a pattern, and I think that if you are in the position that  
18 we are, we have to be reasonable enough to examine the  
19 reasons why it can be changed or should be changed. So  
20 the Board has given its mind to it, I am sure. I am  
21 satisfied that it has but the changes have not come as fast  
22 or rapidly as I would like to see them come but that is a  
23 human element.  
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1 THE CHAIRMAN : Are you completed, Mr.

2 Gaunt?

3 MR. GAUNT: Yes.

4 THE CHAIRMAN: Mr. Newman?

5 MR. NEWMAN: Mr. Decker, just one question,  
6 you have been here for days and days and days as we have  
7 listening to the questions and repetition on both questions  
8 and answers. I would like to ask you a question: did  
9 you and Mr. Hamilton and Mr. Legge and Mr. MacDonald sit  
10 down and discuss the approach you were going to take to  
11 this hearing prior to going on this, or have you discussed  
12 it at any length at the Board?

13 THE WITNESS: Very definitely no, sir.  
14 My colleagues and members of staff are perhaps more  
15 surprised than you are today. That is the truth of that,  
16 sir. I have not discussed it with them and I hope that  
17 doesn't portray that I am a loner, that is not the intention  
18 at all.

19 MR. NEWMAN: May I ask you a further question,  
20 to your knowledge did any other members of the Board sit  
21 down and discuss these hearings as they went along or  
22 before they started?

23 THE WITNESS: I can't answer that question,  
24 sir, but knowing the members of the Board I think they  
25 have come from areas where they have individually made up  
26 thier own minds and this is an assumption of course, but  
27 I can't say yes or no.

28 THE CHAIRMAN: Mr. Allan?

29 MR. ALLAN: Mr. Decker, after having listened  
30 to the discussion here, are the three members of the Board



going to sit down and discuss it after they get through with this?

THE WITNESS: That is the name of the game, sir, I hope. I think we will, sir. I think that we are open to suggestion, definitely to some of the strong ones made at this forum.

MR. ALLAN: I wonder, Mr. Decker, if I could ask you in a little more detail what your background was before you came with the Board?

THE WITNESS: I will start from prior to coming to the Board, and perhaps you can stop me at the appropriate time. I was a member of the Canadian Pension Commission which is, as you know; a semi judicial body of the Federal Government level.

MR. ALLAN: Do they have other duties than adjudication?

THE WITNESS: Yes, they are the policy makers and the Act says they are the sole interpreters of the Act and that doesn't mean that Parliament doesn't check on them when they interpret it as Parliament thinks is proper. But they are the decision makers at Committee level, they are the appeal court to attend to appeals from Commission decisions. I had fourteen years there. Prior to that I was a Commissioner of the Canadian Red Cross Society for three years.

MR. ALLAN: I think that's as far as I wanted to go. What I had in mind was, I was just anxious to try to perhaps get some idea of your qualifications which no doubt were responsible for your appointment to the Workmen's Compensation Board and I was wondering if you had been known as one skilled in adjudication, and if



1 it was largely because of that particular qualification  
2 that you had been selected to be a member of the Board.  
3 My reason for saying that is that I am just wondering  
4 whether you will always find men who can wear two hats,  
5 that is, who are good at adjudication and are likewise  
6 good at administration. Because when you think when you  
7 bring two new members to the Board, and who have had no  
8 experience with the Board it would be -- they would need  
9 to be very excellent persons unless they had had a great  
10 deal of experience in that particular line; if they were  
11 to come into the Board and make it over and improve the  
12 administration practices -- personally I would wonder if  
13 you didn't think that Mr. MacDonald has the responsibilities  
14 really of the administration of the Board. He would get  
15 his directions so far as policy is concerned and with  
16 respect to certain important items from the Board, but I  
17 don't know whether you have indicated or not that you  
18 feel you should be more involved in the administration  
19 and I wonder if you feel directly that you should be  
20 directed ---

21 THE WITNESS: Any comments I have made on  
22 my participation in my involvement in administration was  
23 with reference to the fact, of it being a corporate  
24 administrative body. I have a responsibility to see that  
25 I am apart as long as that is in the Act. With respect  
26 to your other question on why I was selected, I would  
27 like to think that the Minister of the day knew me through  
28 the Pension Commission; I did not apply for the position,  
29 I was asked to come. That part I do not apologize for.  
30 I think I do have some qualifications in that area. I



1 think, however, that you have a very valid point with  
2 respect to administration, that is, can a person be a  
3 good administrator and a good adjudicator. I have very  
4 strong feelings that adjudication is an art, is a science,  
5 it takes a lot of experience, a lot of training and to  
6 me it is very, very important. So I wouldn't disagree  
7 with you.

8 MR. ALLAN: I entirely agree with you and  
9 from what I have heard I think that the Board, the present  
10 Board certainly nothing but good has been said of their  
11 work as far as adjudication was concerned. Now you  
12 mentioned, Mr. MacDonald, he is very busy. I think that  
13 he has the means of overcoming that problem, wouldn't  
14 you think so, if he was properly organized and he has  
15 the proper staff below him? Isn't that where he will  
16 get the strength and relief himself of responsibilities?

17 THE WITNESS: I would have to say that Mr.  
18 MacDonald is very well organized. I couldn't be party  
19 to saying he isn't.

20 MR. ALLAN: One who is organized never  
21 overworks.

22 THE WITNESS: Well, maybe this has been  
23 my concern, to lift some of the responsibility off of him.

24 MR. ALLAN: You see, I am beginning to wonder  
25 whether you three members of the Board are working hard  
26 enough or not, if that isn't some of the problem. I have  
27 wondered if perhaps certain additional responsibilities  
28 were given to members of the Board and various directions,  
29 if this wouldn't be good for members of the Board and good  
30 for the organization. One might be in charge of





1 rehabilitation, like a Vice-President in charge of  
2 rehabilitation where you had something definite to get  
3 your teeth in.

4 THE WITNESS: You are being very cagey, sir.  
5 I don't know whether you are suggesting the devil finds  
6 work for idle hands. I say it in answer to your question,  
7 I couldn't answer that question about the overworking.  
8 There is lots of work as far as hearings are concerned,  
9 but you can't have hearings until the people to be heard  
10 can conveniently be accommodated. Now, that takes a lot  
11 of time. I think the three members of the Board, and I  
12 am speaking for survival now, will have plenty to do in  
13 the future.

14 MR. ALLAN: I think they could have plenty  
15 to do, but I wonder if they have been given responsibilities  
16 in addition to their adjudication which are really worth-  
17 while, sufficient responsibilities up until this time. I  
18 have trouble being fairly in agreement with the idea of  
19 three members of the Board being equal and three endeavouring  
20 to administer the same thing; it's like putting three  
21 brothers of a family to run a company.

22 MR. GOOD: That just doesn't work.

23 MR. ALLAN: I think there should be a head,  
24 as you have said. But don't you think that perhaps a  
25 definite understanding that there was a head might relieve  
26 some of the misunderstanding or the frustration, if you  
27 like to call it that, that might have existed?

28 THE WITNESS: Would you accept a respectful  
29 suggestion, sir?

30 MR. ALLAN: Yes.



1 THE WITNESS: If you feel that -- and you  
2 have made a very important point -- that this is something  
3 that is necessary, I respectfully suggest it is within  
4 the ambit, your ambit, to spell out and I would personally  
5 say that this may eliminate the almost inevitable conflicts  
6 that come from a joint administrative body. I can't say  
7 any more, but your point is well taken.

8 MR. ALLAN: Thank you very much.

9 THE CHAIRMAN: Mr. Good?

10 MR. GOOD: Thank you. One area, Mr.  
11 Chairman. First of all, to relate these answers to hearings  
12 only, how are decisions made by the three members of the  
13 Board where there is a difference of opinion relating to  
14 hearing decisions?

15 THE WITNESS: If I understand your question  
16 you are picturing a Board which has heard the clients,  
17 all the arguments and so on.

18 MR. GOOD: Yes.

19 THE WITNESS: Well, when the Board has  
20 completed its hearing, and I emphasize is satisfied that  
21 all the evidence which can be used to make a decision --  
22 and I like to emphasize another thing -- the man is always  
23 the prime consideration by the Board. I don't think that  
24 can be challenged. But if for instance there isn't  
25 sufficient evidence, as a Board we feel, "Look, there are  
26 some questions unanswered here which could help this man,"  
27 or some clarifications needed. If it was a medical report  
28 we get in touch with the counsel who presented the case so  
29 that he would know what was going on.

30 MR. GOOD: I assume all three members have



1 all the information and there is a difference of opinion.

2 THE WITNESS: Perhaps there was detail I  
3 needn't go into, but I take all areas. Then we sit around  
4 the table after the client and all the representatives  
5 have gone and the presiding member usually says --- Mr.  
6 Hamilton if he is presiding or Mr. Decker or Mr. Legge  
7 turns to one of us and says, "Okay, now what are the  
8 arguments. This is the pro, this is the con and we  
9 discuss it as a Board." Now I should tell you we don't  
10 agree on all points. This is the strength of the system,  
11 but we resolve it after we have exhausted all discussion  
12 and then we decide -- we direct the secretary to write  
13 the decision, whether it is whole or complete or partial  
14 decision.

15 MR. GOOD: It is that result -- you covered  
16 my question in one word, resolve, and I want to know how  
17 you resolve these differences of opinion, is it a matter  
18 of Mr. Hamilton's opinion and your decision and does he  
19 weigh those decisions, or is it done by a vote or is it  
20 just resolved into a final decision?

21 THE WITNESS: To me this is the strength  
22 of the whole program. We start off in an orderly fashion  
23 but you know a discussion -- then we start discussing and  
24 Mr. Hamilton has an idea which I hadn't thought of and I  
25 have one perhaps he hasn't put on the table, and it is a  
26 round table discussion.

27 MR. GOOD: And you are saying that you  
28 always end up with a unanimous decision?

29 THE WITNESS: No, not necessarily, oh no,  
30 we don't always make a unanimous decision. We differ. A



1 decision is where two members agree -- it could be for or  
2 against the man.

3 MR. GOOD: I see. So then any difference  
4 in the Board hearing is resolved by a vote by two of the  
5 three?

6 THE WITNESS: That's right.

7 MR. GOOD: And this could well be that it  
8 is the Chairman and one of you members agreeing or the  
9 two Commissioners agreeing against the Chairman -- could  
10 that happen or does that happen or has it happened?

11 THE WITNESS: Sure, sir. I don't think  
12 either one of us could say that decisions have been made,  
13 that the majority of the decisions with Mr. Legge and  
14 Hamilton agreeing, or Decker and Hamilton. If it was  
15 obvious I am sure that I would notice it.

16 MR. GOOD: Now, the second point, when we  
17 relate that to administrative decisions, and we are  
18 assuming the Board acts as one unit on administrative  
19 decisions within the operation of the Board, is the same  
20 procedure followed or do you have a different procedure  
21 regarding weighting of opinions, or the voting of the  
22 three Board members, how are administrative decisions  
23 reached?

24 THE WITNESS: In the same manner, sir, and  
25 there are decisions in which we have two for and one  
26 against. This is why I took exception to disagreement.  
27 There are differing opinions.

28 MR. GOOD: We have heard for a week now  
29 that there has been no hostility, but there are evidently  
30 all kinds of areas of differences of opinion. Now we have





1 | heard this from every Board member, and from executive  
2 | staff members that have testified regarding the differences  
3 | of opinion, and you are saying then that all differences  
4 | of opinion among the three Board members are resolved on  
5 | a vote among the three members, the Chairman and the  
6 | two other Commissioners.



1 THE WITNESS: That's right.

2 MR. GOOD: Two of the three whether they be  
3 the two commissioners against the chairman or the chairman  
4 and one commissioner resolve all problems?

5 THE WITNESS: That is the decision and the  
6 decision is the majority at all times; there is no question  
7 on that.

8 MR. GOOD: It's amazing then, Mr. MacDonald  
9 has to be so concerned about the underlying differences  
10 between the Board members, that he has to take it upon  
11 himself to resolve these when you tell me you operate in  
12 a democratic manner and able out of two out of three it  
13 resolves all of your administrative as well as your hearings.

14 THE WITNESS: If I were to say "all" I con-  
15 tradict what I said. This is the topic we have been dis-  
16 cussing, what is the degree of involvement and I think it  
17 is degree, sir.

18 MR. GOOD: So that you are saying administrative  
19 decisions in which all three members of the Board are involved  
20 are dealt with that way?

21 THE WITNESS: Right.

22 MR. GOOD: But not all administrative  
23 decisions are dealt with by all members of the Board; is  
24 that a correct assumption?

25 THE WITNESS: I would to say that I have felt  
26 there are decisions which I should be involved in, but then  
27 again, Mr. MacDonald has carried this organization as an  
28 administrative officer and he has to determine what decisions  
29 he can make on policy that is already available and some of  
30 these items or matters of interest would not be brought to  
the Board and I would have to agree on that.



Decker,

1 MR. GOOD: With regards to decisions, you  
2 feel you should be involved in and are not, are these  
3 decisions being made by a General Manager or by the Chairman  
4 or by each independently or by both together or who is making  
5 the decisions which you feel you would like to be involved  
6 in?

7 THE WITNESS: I can't answer that directly,  
8 sir. All I can say, this is the question mark that has  
9 to be resolved in my mind to my satisfaction. I think this  
10 is basic. Mr. MacDonald makes many decisions or attends  
11 to many administrative tasks. Now he is guided by policy,  
12 he is guided by what the Board has done long before I came  
13 here and these policies are the guiding principals of the  
14 Board.

15 MR. GOOD: One last question, you have been  
16 there two years, Mr. Decker. Do you find the same conditions  
17 existing now that existed two years ago in this particular  
18 regard?

19 THE WITNESS: No, sir. I consider I am a  
20 member of the family, to my satisfaction, at the present  
21 time.

22 MR. GOOD: It looks like "The Godfather."

23 THE WITNESS: Sorry, I warned you about my  
24 terminology.

25 THE CHAIRMAN: Mr. Stokes?

26 MR. STOKES: Mr. Decker, what major change  
27 in emphasis might you bring to the operation of the Board  
28 if you were chairman?

29 THE WITNESS: I am sorry, sir. The chairman,  
30 forgive me, I can't answer that question.



1 MR. STOKES: All right then, let me phrase  
2 it another way: do you feel you have complete freedom with  
3 regard to expanding your approach to your responsibilities  
4 on the Board now as if you were the chairman?

5 THE WITNESS: Yes, sir, complete freedom on  
6 my ideas, I would say.

7 MR. STOKES: Have you found at any time that  
8 you were left out in decisions that were taken by  
9 Mr. MacDonald when you felt that you had some input or might  
10 have taken a different approach to it than had been taken  
11 by Mr. MacDonald?

12 THE WITNESS: Yes, and I have discussed this  
13 with Mr. MacDonald. These are the discussions, some of the  
14 discussions Mr. MacDonald and I had. I would have to answer  
15 yes. There is nothing else I could say.

16 MR. STOKES: What were the nature of these  
17 discussions? Have they been resolved to your satisfaction?

18 THE WITNESS: Yes, I have been assured by  
19 Mr. MacDonald, through the correspondence and through the  
20 answers he has given that the task has been carried out as  
21 I would like for it to be carried out; sometimes in degree  
22 I would have made other suggestions but we have an under-  
23 standing here -- Mr. MacDonald can't refer to me everything  
24 that comes across his desk but this is an area where we have  
25 a complete understanding that there will be more and more  
26 participation in, and with a little more maturity on the  
27 Board, I think Mr. MacDonald will come to my office more  
28 regularly than he has come. I think that is a normal thing.  
29 But he does come and he does discuss certain things which  
30 he considers I would have some input.





1 MR. STOKES: What kind of positions were  
2 taken by Mr. MacDonald that caused you to grieve and feel  
3 as though you were neglected?

4 THE WITNESS: Truthfully, sir, I couldn't  
5 recall any decision that was made. I am talking in general  
6 more than anything else.

7 MR. STOKES: Well, generally speaking then,  
8 what were the kinds of decisions that were taken?

9 THE WITNESS: I can't add anything to what  
10 I have already said. I don't see how I could.

11 MR. STOKES: In other words, what you are  
12 suggesting then, the differences were very, very minor  
13 and maybe you were a little petty in bringing it to his  
14 attention at all?

15 THE WITNESS: Maybe I should admit that, sir,  
16 because I haven't got a defense, because I can't give you  
17 instances. I didn't consider I was petty. I considered --  
18 I consider in general I was appointed as a member of this  
19 Board and the government of this province must have felt  
20 that I had the capabilities of doing this job. Now if I  
21 haven't got concern enough to inquire into and to look for  
22 the areas where I should be involved or I think I should  
23 be involved and give the answers to questions, well then  
24 I would be derelict in my duty.

25 MR. STOKES: Is it fair to say that as a  
26 result, even notwithstanding your discussions with  
27 Mr. MacDonald, that nothing material has changed, that the  
28 administration of the Board and the interpretation of policy  
29 and actions taken by Mr. MacDonald will continue to be taken  
30 in that fashion?



1 THE WITNESS: I will not admit, sir, that  
2 Mr. MacDonald sets policy; he does not. I will agree,  
3 however, that with more and more experience on the Board,  
4 Mr. MacDonald, and this is a perfect understanding, will use  
5 me more and more, as my position requires to be used. I  
6 think there is nothing else I can add. Now, Mr. MacDonald  
7 -- I have not suggested that Mr. MacDonald has acted in an  
8 improper way at any time.

9 MR. STOKES: You said as a result of your  
10 discussions Mr. MacDonald will use you more frequently or  
11 more in keeping with your abilities. How did you feel as  
12 though you were neglected, you know, that you felt as though  
13 you were not giving everything that you had to the Board?

14 THE WITNESS: The word "neglect," sir,  
15 implies ---

16 MR. STOKES: How do you expect he would use  
17 you?

18 THE WITNESS: I hope I don't feel that petty  
19 that I feel neglected. How he would use me, when he has  
20 something that he knows that I am qualified to put more input  
21 into. You used the word "input" I think. I think that is  
22 perhaps the answer. I can't answer when Mr. MacDonald is  
23 going to use me more or use members of the Board more. I  
24 think Mr. MacDonald will be a very, very happy man when he  
25 feels that some of the responsibilities he has can be handled  
26 by someone else. I know I would if I were in his position  
27 because he is a very hard working man.

28 MR. STOKES: In other words, you are suggesting  
29 implicit in your comment is that Mr. MacDonald and people  
30 who do the kind of administrative work that he does haven't



1 been using the Board to the fullest?

2 THE WITNESS: An indirect answer perhaps will  
3 be yes, I would have to say this is my conviction. That  
4 we are at the place where more useage could be made -- it  
5 is a bad word -- or the Board perhaps could put more into  
6 it to take a load off Mr. MacDonald. I think that is the  
7 answer I have to give.

8 THE CHAIRMAN: Mr. Deans said he had one  
9 question.

10 MR. DEANS: Mr. Decker, has there been a  
11 meeting of the Board in the last -- well, since the hearings  
12 began -- since the the allegations appeared in the newspaper,  
13 to take a decision as to whether legal action would be  
14 required as a result of any of the statements that have been  
15 made and has legal action been commenced in any form?

16 THE WITNESS: I don't know, sir, truly whether  
17 -- in the terminology you are using, I would have to consult  
18 the counsel. I can give you an answer which may not be the  
19 proper one at this stage.

20 MR. AUSTIN: I can tell you if any,  
21 Mr. Chairman ---

22 MR. DONNELLY: I really didn't hear the  
23 question. Mr. Deans asked ---

24 MR. DEANS: I asked if the Board had met to  
25 discuss the allegations that have made and whether legal  
26 action was discussed and whether legal action has been  
27 initiated in any of the cases.

28 THE WITNESS: I would like for you to under-  
29 stand my hesitancy. I can answer the first two parts of  
30 the question. There has been a Board meeting and at that



1 Board meeting, we transacted certain business which needed  
2 to be transacted. Legal action was discussed. Now, from  
3 that point, legal counsel had to be the guide and I am told  
4 that steps have been taken. Now, this is within the frame-  
5 work of the discussion that you asked about. So I hesitated  
6 to say whether it had or hadn't.

7 MR. DEANS: Let me be clear: are you telling  
8 me that legal action has been started, steps have been taken  
9 in the way of commencing legal action against persons who  
10 have named the Board or who have been involved in these  
11 hearings in a direct or indirect way?

12 MR. DONNELLY: I don't want to make an  
13 answer if my friend doesn't wish to deal with it at this  
14 time, but if I understand the situation correctly that the  
15 actual commencement of the action or the institution of  
16 the writ, and I don't think that has been done yet. But  
17 as time goes on to preserve the right to come to the Court  
18 and notice must be served, and my understanding is that  
19 (a) that notice has been served with the effect of preserving  
20 the right to bring action and so far as I know there has  
21 been no action brought.

22 MR. DEANS: Would it be improper to seek the  
23 -- I seek the advice of counsel. Would it be improper to  
24 ask against who this notice was served? Does that jeopar-  
25 dize the hearing or the case?

26 MR. DONNELLY: My information is that the  
27 notice was served on the Globe and Mail newspaper and a  
28 reporter from that paper called McAuliffe.

29 MR. DEANS: Tell me, is the notice a public  
30 matter or a private matter?





1 MR. DONNELLY: I think it is required by  
2 the law to preserve the right to sue. If the notice had  
3 not been served then at a certain time the right to sue  
4 would be irrevocably lost.

5 MR. DEANS: Is a notice, though, a public  
6 matter? Is it a matter that the public or that I could  
7 or members of this Committee can inquire in regard to the  
8 reasons, or is that something that is reserved for the  
9 Court?

10 MR. DONNELLY: Well I really find that  
11 difficult to answer, Mr. Deans. It is simply a notice  
12 enabling the person to sue if he later chooses to do so  
13 and there is no -- as far as I know, there is no public  
14 filing or public record that you can go to to find it. In  
15 other words, it is not ---

16 MR. DEANS: Can we find out why or on what  
17 grounds the notice is instituted? What I am trying to  
18 find out is, what it is they are contemplating suing against.  
19 I don't want to ask if it's right but I want to know whether  
20 it's proper for me to ask against what it is that they are  
21 suing or for what reason is it that suit or action is being  
22 considered.

23 MR. DONNELLY: I think the action would be  
24 framed in libel if that is what you are asking me, sir.

25 MR. DEANS: Is this a libelous action on  
26 behalf of the Board, the three men?

27 THE WITNESS: Yes.

28 MR. DEANS: Against the Globe and Mail and  
29 the reporter, it's not on behalf of an individual?

30 MR. DONNELLY: I have never seen those and



1 I am just repeating information given to me.

2 Is that correct, sir, that the notice was  
3 given on behalf of the three Board members?

4 MR. AUSTIN: On behalf of the Board.  
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1 MR. DEANS: On behalf of the Board naming  
2 the Globe and Mail and the reporter and that's all?

3 THE WITNESS: Right.

4 MR. DEANS: On behalf of all or one of the  
5 reporters?

6 MR. DONNELLY: I think March 11 and I  
7 think the reason for that is that the time had come --  
8 the time had come it either had to be served or  
9 abandoned I think.

10 MR. DEANS: I won't pursue it because I'm  
11 not sure of the legal position, but I was just curious.

12 THE WITNESS: That is the reason I couldn't  
13 answer the question.

14 THE CHAIRMAN: Mr. Miller?

15 MR. MILLER: One question: A great number  
16 of questions, Mr. Decker, had dealt with the equality  
17 of the positions of the three Board members in theory  
18 but not in fact and with the inequality in the salaries  
19 of the three Board members. You have implied that the  
20 Board members could be used to greater purpose. Do you  
21 think that part of the aggravation that appears to have  
22 been caused by the primus inter pares position of the  
23 Chairman would be remedied by in fact creating a chief  
24 administrative Board member apart from the adjudicative  
25 function?

26 THE WITNESS: You are asking me for a  
27 personal opinion on this. I can see it as one solution  
28 and I think there are precedents for such an administrat-  
29 ion. I don't know of one in Canada in the Compensation  
30 system. I don't think I could give you other than that



1 answer. This would be a one man administration; there  
2 would be the problem of policy; and you would lack input  
3 from other experienced people in varying fields. I  
4 think the strength of the Board like the Workmen's  
5 Compensation Board is the varied experiences that each  
6 member has had in the various fields of endeavour in his  
7 lifetime and this applies to the Board.

8 MR. MILLER: I did not mean to imply that  
9 the other gentleman would not have any input, but simply  
10 the prime duties of that one person were related to  
11 administration on a day to day basis.

12 THE WITNESS: Well, if an individual was  
13 solely responsible and the sole authority for administrat-  
14 ion this might lead to effective working and elimination  
15 of some of the questions you raise as problems. But under  
16 such an administration you couldn't have influence of  
17 the other two members because they could influence but  
18 they couldn't help decide, could they? This is my under-  
19 standing of such a type of administration. We either have  
20 a one man administration -- now there could be variations  
21 as to the ultimate authority for a final decision.

22 MR. MILLER: That is all, Mr. Chairman.

23 THE CHAIRMAN: Mr. Stokes?

24 MR. STOKES: I have one question. I would  
25 like to ask Mr. Decker if he would like to explain to me  
26 sort of the contradiction in his answer to Mr. Newman  
27 when he said the proceedings before this Board were never  
28 discussed collectively with the Board.

29 THE WITNESS: I don't think, sir, that was  
30 Mr. Newman's question. Mr. Newman's question was, as I





1 understand it, and I am sorry, Mr. Newman, if I misunder-  
2 stood it, "Did you discuss your participation with the  
3 Board members prior to coming here?" Am I incorrect,  
4 sir?

5 MR. STOKES: Mr. Newman isn't here.

6 THE WITNESS: No, but am I wrong?

7 MR. MAECK: That was the question.

8 THE CHAIRMAN: Yes.

9 THE WITNESS: Was that what I was asked?

10 THE CHAIRMAN: Yes.

11 THE WITNESS: I was asked here on the side  
12 if I was asked the question with that in mind and I did.

13 MR. STOKES: If that was the question I  
14 didn't take it as such.

15 THE WITNESS: But that was my understanding  
16 of it.

17 THE CHAIRMAN: Has counsel for Mr. Cauley  
18 any questions to put to the witness through Committee  
19 Counsel?

20 MR. LAPKIN: No questions.

21 THE CHAIRMAN: Mr. Lawlor?

22 MR. LAWLOR: Don't neglect me, Mr. Chairman.

23 One of the duties, Mr. Donnelly, that you  
24 will find with Committee is that one may make commentary  
25 without asking questions which is another departure from  
26 our known procedures. The commentary I wish to make is  
27 that as far as I am concerned the Workmen's Compensation  
28 Board like the rest of the human rights is suffering from  
29 a severe Oedipus complex. As a matter of fact in your  
30 evidence -- throughout your evidence if I may comment in



1 this particular way, you have left me with a confused  
2 father image. First of all, the father apparently, the  
3 paternal figure that is guiding the destinies of the  
4 Board is Mr. MacDonald, and then somehow a shift takes  
5 place and Mr. Legge emerges as the omnipotent father  
6 figure. I am not quite sure which one really occupies  
7 the high status, there are no mothers apparently in the  
8 Board.

9 MR. HAMILTON: I would like to know where  
10 I fit into the family.

11 MR. LAWLOR: And then we get into the  
12 business this morning of the analogy to the family  
13 corporation in which the owner-manager is the figure now.  
14 I wouldn't think that you would, to identify the owner-  
15 manager of this particular corporation, Mr. MacDonald,  
16 looks to be more probably -- looks like Mr. Legge may be  
17 the owner-manager in this particular context. Would  
18 those surmises have some remote relevancy to these  
19 Hearings?

20 THE WITNESS: You want an honest answer,  
21 do you?

22 MR. LAWLOR: Yes, I want an honest answer.  
23 I want you to resolve your Oedipus complex right now.

24 THE WITNESS: Anything similar to anything  
25 living or dead to what I said, sir, is coincidental or  
26 what I intended. But I think you make an excellent  
27 student on the Oedipus theory. You are very shrewd, sir.

28 MR. LAWLOR: Well, do you know what  
29 Sigmund says, he says that all our problems, all our  
30 miseries are caused by our father figures, we haven't



1 resolved them, we can't get along with other people  
2 because we have it and so the Workmen's Compensation  
3 Board and they just want to get the right father figure  
4 here so we can zero in on them. Is it Legge?

5 THE WITNESS: I knew you weren't being  
6 general.

7 No, sir. I can't single out any single  
8 individual. I think in ---

9 MR. LAWLOR: What are you talking about  
10 family corporations for then?

11 THE WITNESS: Family corporations I was  
12 talking about and I think I very, very strongly emphasized  
13 this, that the family corporation was a symbol of this  
14 type of residue which can be found in some administrations,  
15 boards and commissions and so on.

16 MR. LAWLOR: And persists in this corpor-  
17 ation?

18 THE WITNESS: I said it wasn't visible in  
19 this corporation, but this could be some of the answer  
20 to some of the symptoms and causes which we have seen.  
21 I said it was a personal observation and a reason for  
22 my personal concern.

23 MR. LAWLOR: In trying to access the  
24 import of your evidence, would it be unfair to suggest  
25 to you or if I interpret it you are saying even today  
26 the Workmen's Compensation Board, for your tastes,  
27 remains a little bit too much of a one man show?

28 THE WITNESS: Is that a question, sir?

29 MR. LAWLOR: That is a question.

30 THE WITNESS: I think everything I have



1 said, sir, has answered yes. To be honest I have to say  
2 that.

3 MR. LAWLOR: And to pursue the tactic by  
4 Mr. Allan on this and you threw the ball back to the  
5 Committee, but also you can be of great assistance in  
6 this regard in the Committee's deliberations after all  
7 the evidence is in would there be merit in restructuring  
8 the three man Board somewhere along the line to give  
9 those people the areas of disposition to which their  
10 tastes incline them that you have a Chairman, have an  
11 overall suzerainty in all areas who sits in on the odd  
12 occasion on education, but that the adjudication process  
13 be separate and be distinct and that an adjudication  
14 board of three men be operative. Would you think there  
15 would be merit in that?

16 THE WITNESS: Yes, sir, I do think that  
17 there are many, many suggestions which could be made and  
18 that is one of them. You say it for consideration, did  
19 you?

20 MR. LAWLOR: Would you prefer that or the  
21 alternative, that the Board as a sitting entity entering  
22 far more deeply precisely as a Board into the day to day  
23 administration of the Workmen's Compensation Board?

24 THE WITNESS: Yes, please.

25 MR. LAWLOR: If I may interject. Your  
26 complaint really is you have responsibilities and as a  
27 man of integrity you say, "I want to carry them out  
28 and the Act says I haven't got the equality of power but  
29 the Chairman of the Board at the present time is exercis-  
30 ing beneficially, we trust, a very heavy administrative





1 load and I don't think that is necessary, or even if it  
2 is necessary I participate in that, it isn't too far,  
3 my job is to participate precisely in that, at least in  
4 upper echelon decisions. Up until now we haven't been  
5 called upon to do that, but if we are going to exercise  
6 our function we simply have to be." Would that be a  
7 resume of what you say?

8 THE WITNESS: I think I said that, sir. I  
9 am sure the Committee appreciates a member of this  
10 Board or a member of staff is in while he is here.  
11 There are no clearcut yeses or nos. To me this Board  
12 is so important that I can't risk -- the word "risk"  
13 is not the proper one, but we are in such a squeeze that  
14 to say yes to something or no to something is not the  
15 proper answer. I agree with you a suggested alternative  
16 from an administration point of view. The Board as an  
17 administrative body, it is purely academic. What is  
18 administration? We are a policy setting body and  
19 responsible for seeing that administrative procedures  
20 are carried out. Now you asked me that question and  
21 I would say yes, we are.

22 MR. LAWLOR: On the whole I would gather  
23 too and would it be fair too on this, that you are in  
24 effect referring somewhat to Mr. Legge because of your  
25 own friendship, because of his seniority, because of  
26 his grasp of Board affairs which you have not even yet  
27 been able really for he has been there many more years  
28 than you and for these various reasons feel that he  
29 does exercise some role of superiority?

30 THE WITNESS: This is the squeeze I am in,



1 sir. If I said no it would be pretty pompous on my part.  
2 If I say yes I am assuming that I know that I am as good  
3 as somebody else and I like to try to leave that to  
4 somebody else to say.

5 MR. LAWLOR: Yes, I know, everybody does that.

6 Thank you.

7 But you seem to be the boy to say it, you  
8 know?

9 Now, listen, on this -- I am looking at the  
10 Gerald McAuliffe article in the Globe and Mail of April  
11 the 7th -- you know this article, do you, the contents  
12 thereof?

13 THE WITNESS: Which one?

14 MR. LAWLOR: April the 7th largely having  
15 to do with yourself, Mr. Decker.

16 THE WITNESS: Yes, I have read the article  
17 and I have it here, sir.

18 MR. LAWLOR: Would you contend that this  
19 article was a tissue of fiction?

20 There are three things you would take out  
21 of this article?

22 THE WITNESS: May I answer your question,  
23 sir, a box of tissue with a very small portion removed --  
24 this is what it is. It is fiction in many, many areas of  
25 the statements here. They are inferences in many areas.

26 MR. LAWLOR: You have already stated that  
27 the tape recording business is quite fictitious, that you  
28 had no difficulty approaching Ministers and the only thing  
29 that yet has not been canvassed over thoroughly perhaps  
30 is in the article about five paragraphs down it says,



Decker,

"Mr.

MacDonald has also issued orders to senior Board executives to make notes on discussions and meetings with Mr. Decker and write detailed memorandums for himself and Mr. Legge."

Do you know anything about that at all?

THE WITNESS: That question was asked, sir, and my answer was, "I do not know."

MR. LAWLOR: Not that it is false, but that you don't know?

THE WITNESS: Well, if I don't know I can't say it is false or true, I'm sorry.

MR. LAWLOR: Just one final question to perhaps the counsel. Has the Board as such power to sue on a libel proceeding?

MR. DONNELLY: I would have to take that under advice, sir. I could give you my offhand opinion, but I'm not going to do that.

MR. LAWLOR: Just a question of Mr. Decker on it, is it you personally that is going forward with the suit or is it the Board as you understand it?



Decker

1 THE WITNESS: I understand it is the  
2 Board, sir.

3 THE CHAIRMAN: Have you completed, Mr.  
4 Lawlor?

5 MR. LAWLOR: Yes, sir.

6 THE CHAIRMAN: If there are no further  
7 questions of the witness he may be excused, and I would  
8 thank Mr. Decker for his contribution to the Committee.

9 Mr. Counsel?

10 MR. DONNELLY: Mr. Chairman, I had hoped  
11 to call Mr. Draper. Is he available? The fault may not  
12 be entirely his. I don't think I notified him until today.  
13 We are in this position, Mr. Chairman. If the Board are  
14 prepared now if you wish to start in on the industrial  
15 remission and so on, but Mr. Deans has pointed out and I  
16 think quite fairly that it is better that the industries  
17 should be here and they are being subpoenaed for next  
18 week. In addition to that there is a question of the land  
19 deal and I don't think you want to start into that, I think  
20 the Board could, or Mr. Carton could, but in addition  
21 there are some witnesses here from the group that were  
22 released until tomorrow morning -- I could start on them  
23 if you like. If you want them altogether it would have to  
24 be on Tuesday.

25 THE CHAIRMAN: It would indicate that they  
26 would like to start with them in a complete group on  
27 Tuesday.

28 MR. DONNELLY: May I say it this way, if  
29 that is the case and if Mr. Draper is not available, I am  
30 in the position then of having run out of at least





1 acceptable witnesses. I won't say I have run out of  
2 witnesses, but I say I have run out of witnesses that I  
3 am prepared to hear at this time. I say acceptable in  
4 that sense. May I say that I see it generally on these  
5 terms: that we reconvene on Tuesday, I would propose  
6 dealing with the former employees of the Board and I  
7 would hope perhaps on Wednesday we might come to the  
8 industrial matters, and I suppose follow that with the  
9 land. But the reason I bring this to your attention is  
10 it may be that some time next week we may be beginning  
11 to see the end and I had earlier suggested that we might  
12 fix a date beyond which new matters won't come before us,  
13 and it may be that next week the question of the industrial  
14 remissions or the land matters may come to the attention  
15 of certain people who should be heard, and I was going to  
16 suggest maybe by next Thursday, that would be some days  
17 hence, eight or nine days hence, we might draw a deadline  
18 and then the following date, if there are other matters  
19 that come up that should be heard, we might do it and  
20 might be done with it, and I leave that with the Committee.

21 THE CHAIRMAN: Is that acceptable to the  
22 Committee?

23 That being the case, we adjourn until next  
24 Tuesday morning at 10:00 o'clock.

25 --- Upon adjourning at 4:05 p.m.

26 CERTIFIED CORRECT

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29 REPORTER \_\_\_\_\_  
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*Sup*

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

( WORKMEN'S COMPENSATION BOARD )

Tuesday, May 2, 1972

Morning Sitting.

1 --- Upon commencing at 10:15 a.m.

2 THE CHAIRMAN: I call our meeting to order  
3 This morning before we begin I believe counsel for the  
4 Committee wishes to make a statement pertaining to the  
5 Hearings.

6 MR. DONNELLY: May I proceed, Mr. Chairman

7 THE CHAIRMAN: Yes.

8 MR. DONNELLY: Mr. Chairman, may I once  
9 again be permitted to comment on our progress to date  
10 and our future direction as it relates to the evidence  
11 of the former employees of the Board as we are now  
12 reaching that stage in the proceedings.

13 I have deliberately refrained from inter-  
14 fering in the questioning area rather on the side of  
15 leniency permitting hearsay and opinions rather than to  
16 suppress anyones right to question or to be heard.

17 I have said before that my reasons are  
18 twofold: Firstly, that simply a demonstration of my  
19 respect for the right of the public to inquire and to know  
20 through this, the Committee of the House; and secondly,  
21 in my unique position as counsel to the Committee and  
22 others I must be scrupulously careful neither to take  
23 sides nor appear to do so and any opinion that I now  
24 express is not offered to influence or the bind you. The  
25 decision making process is your prerogative free of any  
26 disruption by me and any such opinion of mine that is now  
27 expressed is with the greatest respect to you and it is  
28 solely so that you may understand my suggestion, and  
29 with deference may I submit that the time has come to  
30 take inventory of our present position. I think it is a

1 time for introspection to re-examine who we are, what we  
2 are doing and what we hope to accomplish. As an exten-  
3 sion of Parliament you are in a position to criticize,  
4 you are in a position to require certain standards, but  
5 should we also set exacting standards for ourselves.

6 Now I have grave personal reservations  
7 about the wisdom of, and I am constrained to make the  
8 formal observation regarding the danger in hearing evi-  
9 dence of the former employees in this particular form.

10 You have the power to compel the attendance  
11 and to compel the evidence of the witnesses and, further,  
12 you automatically cloak those witnesses in immunity in  
13 the sense that their evidence is priveleged thereby you  
14 provide a safe but formidable public platform. The  
15 obvious risk can be seen by this Committee's own exper-  
16 ience. Certain of Mr. Cauley's charges arose from  
17 hearsay and probably should not have been heard in the  
18 first instance, hence there would have been no need for  
19 rebuttal. But there was one area where even if I had  
20 been here I don't think I could have helped you, and if  
21 you look at the evidence of April the 5th on page 35 it  
22 is the sequence where Mr. Cauley describes going up to  
23 Mr. Cross' home and he quotes himself. Now I am not  
24 going to repeat the exact words, but the words were to  
25 this effect, what were the circumstances that would  
26 compel you to be a party to perjury or to a false swear-  
27 ing? Now that originates with Mr. Cauley and it isn't  
28 hearsay, it is first hand, but it is admittedly self-  
29 serving but it probably would have gone in evidence even  
30 if I was here. Well that was a serious charge, making

1 him a party to the compulsion of perjury. Mr. Cross  
2 came forward and he replied. But you people are not a  
3 jury and you do not, in my opinion, have the function  
4 of deciding each detail that comes before you. You  
5 should be interested in a broader spectrum and so far as  
6 I am concerned I don't want to see you cornered into  
7 becoming a pseudo jury. Mr. Cross can look forward to  
8 no adjudication from this forum. That is not your  
9 function. The accusation made against him is priveleged  
10 and he has no recourse elsewhere so in that limited  
11 sense Mr. Cross could be an innocent victim of this  
12 proceeding in that he was harmed and he has no effective  
13 recourse.

14 Now, the flamboyant accusation is headline  
15 material. The plaintiff's rebuttal is too easily over-  
16 looked and perhaps you have to be a lawyer to appreciate  
17 the hurt that may have been done to Mr. Cross. But at  
18 his age, 75 years, with whatever there remains in life  
19 ahead of him what can be more important than honour and  
20 integrity?

21 It is my submission to you that if we  
22 start in on that process of hearing these witnesses we  
23 have a responsibility to control them and we cannot  
24 advocate that responsibility by simply turning them  
25 loose to say what they like. This is a Committee of  
26 the House and I submit to you that it is under a high  
27 duty to see that innocent people are not harmed in a  
28 forum where they have no adequate recourse. There is  
29 also a lesser but practical risk in that you may  
30 manoeuvre into weeks of evidence down each rabbit run

1 chasing down and rebutting hearsay or gossip or as the  
2 phrase was used here "rumblings and rumours". It could  
3 become an absolutely endless exercise extending beyond  
4 former employees even into present employees. I think  
5 you have got to remember who is running this Committee;  
6 it is not to be a case of the tail wagging the dog, you  
7 have got to maintain your overall perspective and not  
8 become lost in the detail.

9 Now, with great respect, in the broad  
10 spectrum I don't think it is necessary for me to write  
11 something on a stick and hit you over the head with it  
12 so that you can learn. Now even the most naive listener  
13 to this testimony, regardless of the careful framing of  
14 the words of the evidence, must have the general im-  
15 pression that on the personality plane at least all was  
16 not sweetness and light at the Board. The question is  
17 this: How much detail must you hear for your purpose  
18 as a committee and, perhaps more importantly, how often  
19 must you hear it? Our purpose is not to flush out all  
20 the dissident former employees in order that they may  
21 purge their satisfaction. We must be mindful that some  
22 complaints relate to conditions that existed in 1965  
23 and 1966. How interested is this Committee in that  
24 episode some six years ago?

25 You should be mindful also if there were  
26 personality problems you may come in contact with some  
27 residual buyer and the present witnesses are sounding  
28 boards. You should also be mindful of the way of the  
29 probative value of evidence from such a source. I have  
30 interviewed some of these witnesses and I can tell you



1 this, some of them are highly critical; some of them are  
2 just the reverse; and some as you may expect are in-  
3 different.

4 But this Committee may in general terms  
5 consider the following things to be abundantly clear:  
6 It has been demonstrated that this Board is no one  
7 person's personal corporation. It has been further  
8 demonstrated that it can be called a public account. You  
9 may think that personality abbrasions are necessarily  
10 incidental to a 1,400 person organization. You may think  
11 that the introduction of change and serious change for  
12 the first time in 15 years necessarily gives rise to  
13 personality abbrasions. Following that theme of change  
14 you may think there are other areas that require change.  
15 You may think it is advisable to delineate the duties of  
16 the chief executive officer as between administration  
17 and adjudication.

18 You may think it advisable to delineate  
19 Mr. MacDonald's function. Obviously he co-ordinates  
20 all below him. The question is, to whom should he report  
21 above, the chief executive officer, to the Board or to  
a certain member of the Board? You may think it  
23 advisable to further delineate the duties of the Board  
24 itself or of the individual members of the Board.

25 You may think there is a benefit in the  
26 general revision of the retirement and early retire-  
27 ment policies for Board employees and for Board members.

28 More particularly, you may think that  
29 comments should be made on the self-perpetuating aspect  
30 of earning further sick time while you are drawing your

1 sick time.

2 You may think comment may fairly be made  
3 on the selectivity of the retirement policy for Board  
4 members. You may consider the propriety of the consul-  
5 tants fee and the payments, therefore, remaining with  
6 the Board itself.

7 You may consider whether it is proper that  
8 Board members should be permitted to accumulate holiday  
9 credits on an unrestricted basis.

10 You may question the use of attendance  
11 credits prior to this early retirement.

12 You may think there should be a fixed policy  
13 on retroactive salaries.

14 You may have questions to ask about the  
15 legality of the Cauley severance pay.

16 You may have criticism to offer following  
17 that breakdown not for Mr. Cauley to get a copy of that  
18 Board order.

19 You may have something to say about any  
20 clandestine tape recording. You may consider the  
21 condition of this one man Board may have been thrust  
22 on Mr. Legge as necessarily incidental to his long  
23 tenure with pro tempore commissioners.

24 You may consider the Board needed leader-  
25 ship in that phase, and having come through that phase  
26 maybe it was a difficult adjustment to come back to a  
27 full time three man Board.

28 You have heard your other Commissioners.  
29 There are two full time men. Whether they are good men  
30 or whether they are strong-minded men or whether they are

1 independent men is a matter for you, but they seem to  
2 be knowledgeable now having served so long; they are  
3 knowledgeable of the Board, its procedures and its short-  
4 comings and they seem to be of critical minds, they can  
5 see room for improvement. They are both aware that a  
6 two-thirds vote can change things on the Board and they  
7 have both expressed the opinion that it is within the  
8 competence of the Board to effect change and improvement  
9 from within the Board.

10 These are matters that you must weigh  
11 against what you hope to gain from these past employees.

12 There is another entirely different  
13 consideration that I want to direct your minds to. This  
14 could degenerate into a fight at a fairly low level. The  
15 Board may find itself in a position where to conduct  
16 its defence effectively it must make this judgment:  
17 Does it (A) disain the fight, walk away and run the  
18 risk of assumed guilt because the reply is silent or  
19 (B) does it run the risk of degrading itself by retaliat-  
20 ing in kind and launching counter-attacks against these  
21 witnesses, perhaps their work or their personalities  
22 or their honesty or their financial problems or their  
23 moral problems, many embarrassing areas. We should  
24 bear in mind that the evidence about Mr. Legge, much of  
25 it was critical, but it was rather on this vein; that  
26 what he did he did well whether he was adjudicating on  
27 his speaking engagements, whether he was involved in  
28 this major international activity or administration he  
29 seems to have been a very able man in these areas.

30 You may not agree with his apportionment

1 or a priority as to where his time should go and you may  
2 see fit to give direction in that area, but I think you  
3 have got to make this decision: How long are you going  
4 to offer Bruce Legge for public rebuke? In effect, we  
5 must consider the risk of debasing, degrading or even  
6 destroying the Board and its reputation and that of the  
7 Commissioners. I have already mentioned the risk of  
8 harm to other innocent people who have no adequate re-  
9 course at this Committee level.

10 You also, I think, run the risk of demeaning  
11 yourself as a Committee of the people's parliament by  
12 being side-tracked into such an unnecessary morass. This  
13 Committee, above all others, should go a long way to  
14 protect the innocent simply because of the power it has;  
15 it should go a long way to protect itself and to ensure  
16 fairplay to the Board. I think that you have got to  
17 reconcile the justification against the downside risk. You  
18 have got to be aware that if there is a present open-door  
19 policy these witnesses come in with the cloak of the  
20 invincible armour of privilege and that is open to any  
21 manner or means of witnesses, be they bigots or  
22 crackpots or mentally, or whatever it is. I do not ever  
23 and do not now bear any grief for the Compensation Board  
24 or for Bruce Legge or for anyone else; and mark you clearly,  
25 I seek to suppress or shut off no witness. I am simply  
26 telling you what I think. These are my views of the  
27 risks involved and said honestly and without bias and no  
28 ulterior motive and devoid of fear or favour.

29 We have progressed to the stage where this  
30 Committee must make a firm judgment. If the Committee

1 consider it necessary to hear from these former employees  
2 perhaps more properly it should be done elsewhere. Maybe  
3 you do require an independent judicial body where the  
4 parties can have full representation, they can be in-  
5 dependently represented, and more importantly, where if  
6 accusations are made they can expect some judgment or  
7 ruling.

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1 I think you can only justify that if  
2 you are conscientiously satisfied that there is  
3 sufficient credible evidence that this system of the  
4 Committee can handle. On the other hand, if there is  
5 a Committee you have heard in general terms for your  
6 purposes the situation of the Board, remembering that  
7 you are investigatory, you are non-judicial, you are  
8 non-accusatory, then you may consider it both unnecessary  
9 and unwise to pursue the evidence of the former employees  
10 here. You may think it prudent to get on with other  
11 matters. Perhaps the land remissions. But may I  
12 finally say to you then in my opening remarks to you  
13 I caution against this becoming a launching pad for  
14 personal attack or counter-attack. I warned against  
15 the risk of this becoming a crucible to consume men  
16 and their reputations and I am not anxious to be a party  
17 to that inherent and obvious risk of sifting the  
18 evidence of former employees in the winds of the  
19 Committee system. If we are to embark on these witnesses  
20 it will be only after your conscious judgment and your  
21 expressed instruction to me.

22 Now may I thank you for your courtesy  
23 in permitting me to speak and your attentiveness in  
24 allowing me to finish. And I have gone a rather long  
25 way with my opinion. If I have transgressed I apologize.  
26 Now I humbly accept such criticism and censure as you  
27 may offer to me.

28 And furthermore, if because of the extent  
29 of my remarks you think that I have gone too far to be  
30 able to serve you impartially, it is within your



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1 competence to dismiss me.

2                   Gentlemen, I rely on your good judgment,  
3 on your perspective to dictate our course. I have said  
4 a very simple thought may be in complex terms, maybe  
5 you want to think about it. Thank you very much.

6                   THE CHAIRMAN: Thank you, Mr. Counsel.  
7 I think all of the Committee have had put before them  
8 in the last few minutes very important things to  
9 think about and I am going to adjourn the Committee  
10 for thirty minutes so that the Committee may have some  
11 time -- a little further time to consider what you have  
12 said, and to decide on a course of their own.

13                   We are adjourned for thirty minutes, that  
14 is, about 11:05.

15 --- Upon recessing at 10:35 a.m.

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1 --- Upon resuming at 11:05 a.m.

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3 THE CHAIRMAN: We will come to order. First  
4 of all, the Committee have had an opportunity to consider  
5 the statement made by counsel prior to our brief adjourn-  
6 ment and at this time, I speak on behalf of the Committee  
7 when we say we want to thank counsel most sincerely for  
8 bringing a number of matters to our attention, reaffirming  
9 certain things that have taken place since these hearings  
10 began. Counsel has been tremendously helpful. One thing  
11 that bothers me as Chairman and has bothered our Committee  
12 that at this point we didn't want to feel that there was  
13 anything being done in the way of suppression at all, anything  
14 being done so to speak, putting the lid on it, so Committee  
15 has decided to proceed with hearing certain of the witnesses  
16 that are scheduled to be heard this morning, and with that  
17 I would ask counsel to call his first witness.

18 MR. DONNELLY: Mr. Chairman, in view of your  
19 ruling, I think that I am obliged to offer you the oppor-  
20 tunity to proceed without me. Now I say that, mindful of  
21 the fact that I know that I have a responsibility in common  
22 with you to try and make this Committee system work and I  
23 am of two minds; that responsibility weighs very heavily on  
24 me; I just can't simply surrender my retainer without your  
25 direction, but I am at your disposal as to whether I continue  
26 or not, Mr. Chairman.

27 MR. ALLAN: Well, Mr. Chairman, if I could  
28 express the opinion of one member of the Committee. I have  
29 felt that Mr. Donnelly has been a very great help to the  
30 Committee; I have nothing but admiration in the way that he



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1 has assisted us. We would be lost without you, sir, and  
2 am one who wants to see you continue and to give your  
3 professional guidance and give us the benefit of your good  
4 judgment and good sense.

5 MR. GAUNT: Agreed.

6 THE CHAIRMAN: Mr. Allan has expressed very  
7 well the feelings of the entire Committee, as a matter of  
8 fact, I believe all members of the House, insofar as your  
9 work with this Committee to date, Mr. Donnelly, has been  
10 tremendous and it is our wish that you carry on as you have.

11 MR. DONNELLY: Thank you, Mr. Chairman.

12 Marcus Dowding, please.

13 THE CHAIRMAN: I might mention before you  
14 begin with this witness, Counsel, that we are not inclined  
15 to be looking for old issues to rehash; we were looking for  
16 new material, if any, and we are going to be quite firm  
17 about that as we go along.

18 THE CHAIRMAN: (Swears the witness)

19  
20 MARCUS DOWDING, Sworn:

21 MR. DONNELLY: Mr. Chairman, members of the  
22 Committee, Mr. Dowding appears with his counsel, John Farr

23  
24 EXAMINATION BY MR. DONNELLY:

25  
26 Q. Mr. Dowding, what is your present  
27 occupation, sir?

28 A. Before I begin my testimony, sir ---

29 Q. Just answer my question, please.

30 A. I am with the Canada Post Office.

1 Q. Now is there something you wish to say  
2 before you start your testimony?

3 A. Yes, sir. I am sorry I interrupted  
4 you. In view of your remarks a moment ago, before the  
5 Committee, I feel somewhat labelled already as being either  
6 some kind of mental case or with some kind of tremendous  
7 grudge against the Board, and I therefore feel that my  
8 testimony is given under some protest, if that is the label  
9 that is going to be placed on me.

10 Q. Did you wish to give your testimony  
11 in question and answer form or in statement form, sir?

12 A. I would rather give it in question and  
13 answer form, sir.

14 Q. Tell me, sir, the newspaper reports  
15 indicate you have completed a declaration or affidavit. Are  
16 you familiar with the document I refer to?

17 A. Yes, sir, I am.

18 Q. Do you have a copy of it?

19 A. Yes, sir, I do.

20 Q. Will you read it into the record, please.

21 A. "I, Marcus Dowding, of the City of  
22 Ottawa, in the Regional Municipality of  
23 Ottawa-Carleton, make oath and say as  
24 follows:

25 1) I agreed to a request from the  
26 Globe and Mail to be interviewed about  
27 my five years as an employee of the  
28 Workmen's Compensation Board.

29 2) I was employed as Director of  
30 Personnel from April, 1967 until

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December, 1971. When I left I was earning \$18,000. a year.

3) I am now employed in the Organization and Development Department of the Canadian Post Office and have been since January of 1972.

4) I left the employ of the W.C.B. because of the poor atmosphere, an unsatisfactory managerial climate, and the opportunity to put to use experience and talents I was not able to use at W.C.B.

5) In my opinion and knowledge there are severe top management problems at the W.C.B. that stem from a constant state of anxiety as to what to expect from the Chairman, Bruce Legge.

6) I became aware of this within a very short time of joining the W.C.B. since the principal officers involved were quite willing to talk about it. Everybody recognized that Mr. Legge was a very difficult and unpredictable man to cope with.

7) He was a man with many fine qualities who devoted much of his time to good works. He has a sense of humor and is well read.

8) But he is also a man who has great difficulty in dealing with people who

report to him. His military orientation seems to override any sensitivity he may possess.

9) The fact is the W.C.B. is run like a branch of the Department of National Defence. Even the three cafeterias at the Board are openly referred to as the officers' mess for the Board members, high ranking guests and principal officers who are accorded charge account privileges; the sergeants' mess for the middle level managers, and the third cafeteria for other ranks. They are all in the same area but you don't eat in the area reserved for executives without first being invited.

10) Various departments are alerted in advance to inspections carried out by the Chairman. It is understood everything must be in order.

11) Principal officers' meetings held every Friday afternoon are supposed to be an honest communication of all executives with the three-man Board.

12) In fact, they are a circus. There is tacit agreement between executives that nothing of any real importance can or should be discussed.

13) The real issues that should be

13) The real issues that should be discussed are always hidden. Executives regard it as a helpless exercise to bring them up because the Chairman would order them put on the agenda of a future meeting and the more controversial ones were never again discussed.

14) Many times executives were requested to report on a specific subject chosen by the Chairman and then to their dismay became the object of a severe dressing down by Mr. Legge. 15) Mr. Legge would subject people to what in my view was a legalistic cross examination. Such was the atmosphere that the other members of the executive were too anxious for their own wellbeing to offer any support.

16) It was Board policy that all new employees would attend an induction ceremony held every two weeks at which the Chairman liked to be present. In fact, they had to be arranged to fit his schedule.

17) I have personally witnessed discussions between Mr. Legge and new employees which in my opinion have been little short of frightening

cross examinations.

18) It wasn't so much the questions he asked as the manner in which he asked them. The questions were piercing and intimidating. For example, he would ask, 'Are you here to work or are you here for the security? Do you believe in the profit motive?'

19) It appeared that his whole motive was to be feared. He had no patience with people who held views on any matter that did not coincide with his.

20) Mr. Legge continually criticized the kind of people who were hired. He never said so directly but he constantly made it obvious that he disliked anything but conservative dress and short hair.

21) When Mr. Decker and Mr. Hamilton joined the Board it was generally believed among the executive that conditions might improve.

22) I had a discussion with Mr. Decker at his invitation. Shortly after I was asked by A. G. MacDonald, the Executive Manager, to prepare a written resume of my conversations. I was told by Mr. MacDonald that the memorandum was to go to Mr. Legge. I refused. But I do know that other executives



1 did comply with the request.

2 23) Mr. Decker later told me personally  
3 that he was very disturbed with the  
4 atmosphere and tension that existed  
5 among the executives.

6 24) In June of last year there were  
7 two openings for jobs in the rehabili-  
8 tation department. The jobs were posted  
9 according to the regulations and over  
10 a dozen Board members applied.

11 25) The rehabilitation department  
12 chose two men, one of whom was  
13 Charles Brownell. Mr. Brownell had  
14 been chairman of the Employee Representa-  
15 tion Plan and his family and he were  
16 friends of the family of Dr. Morton  
17 Shulman.

18 26) One day, shortly after the appoint-  
19 ments were posted, I was in the office  
20 of William Kerr, assistant to the  
21 executive manager, when Mr. MacDonald,  
22 the Executive Manager, came in.

23 27) He asked Mr. Kerr how Mr. Brownell  
24 got the job.

25 28) Mr. Kerr said that was Ian Campbell's  
26 business.

27 29) Mr. MacDonald said, 'Come off it  
28 Bill, you were in charge of that  
29 department at the time.'

30 30) Mr. MacDonald then asked me was

-9

1 aware of the situation. When I said  
2 I was he said I should have had 'more  
3 Goddamn sense than to let his name go  
4 forward' because Mr. Brownell was a  
5 friend of Dr. Shulman.

6 31) Mr. MacDonald further stated that  
7 the Chairman 'was going through the  
8 roof'. He had never seen him so mad.

9 32) On two occasions I saw Mr. Draper  
10 engaged in a telephone conversation  
11 in his office with a tape recorder  
12 attached to the telephone. I cannot  
13 recall the exact dates but it was  
14 within the last year.

15 I make this declaration conscientiously  
16 believing it to be true and knowing that  
17 it is of the same force and affect as  
18 if made under oath and by virtue of the  
19 Canada Evidence Act.

20 Sworn before me at  
21 the City of Toronto,  
22 in the County of  
23 York this nineteenth  
24 day of April, 1972.

25 (by a Commissioner etc.)"

26 Q. Now, was there any further declaration  
27 or affidavit completed by you, sir?

28 A. No, sir.

29 Q. May a copy of that affidavit be filed,  
30 please?



3-10

1 A. Certainly. I understood it was, sir

2 Q. May it now be filed, please?

3 A. Yes.

4 EXHIBIT NO. 69: Statutory Declaration of Marcus Dowding.

5 MR. DONNELLY: Mr. Chairman, may I advise  
6 the Committee that I have had no instructions from the  
7 Compensation Board about the examination or cross-examina-  
8 of this witness.

9 Now, Mr. Dowding, is there anything further  
10 that you wish to bring before this Committee?

11 A. In the light of what I have already  
12 said, sir?

13 Q. Is there anything further you wish to  
14 bring before the Committee?

15 A. No, I don't think so.

16 Q. Have you had an ample opportunity to  
17 consider that? You knew when you were going to give  
18 evidence and having considered you said what you have had  
19 to say, have you?

20 A. I believe that the bulk of my testimony  
21 is enough in terms of my feelings about my observations  
22 about the Board. I believe that all the executives there  
23 are honorable people but I think that they are operating in  
24 a situation which is somewhat untenable at times.

25 Q. Anything further, sir?

26 A. No, sir.

27 Q. Now, sir, just my own impression of  
28 the affidavit and I read it this morning for the first time.  
29 Apart from paragraph numbered 32 on page five, the general  
30 tenor of the affidavit appears to me to be a criticism of

1 Mr. Legge rather than a criticism of the Board. Do you  
2 agree with that, sir?

3 A. I am just trying to find the paragraph  
4 you are referring to, sir. Yes, but I had referred to  
5 Mr. Legge about all of these things about two years after  
6 joining. I told him exactly what I told you, face-to-face.

7 Q. But the question I was putting to  
8 you was what, sir? Do you recall what I just asked you?

9 A. You asked me if all questions except  
10 paragraph 32 were a criticism of Mr. Legge.

11 Q. And your answer was?

12 A. I would say that they are observations  
13 on the effect of Mr. Legge's behaviour on other executives.

14 Q. They are not critical of the Board  
15 itself or of its operations?

16 A. No.

17 Q. And the substance of the criticisms  
18 offered of Mr. Legge relate to the manner in which he  
19 appears with those in the employ of the Board and the fellow  
20 Board members; is that correct, sir?

21 A. Yes, it has the effect of that.

22 Q. But I take it that your criticism of  
23 him is not directed towards his ability but rather the  
24 manner in which he deals with people?

25 A. Precisely.

26 Q. And is that the point you wish to  
27 bring before this Committee?

28 A. I believe that that has an entire  
29 bearing -- that the attitude of the top executives can  
30 ripple down through an organization.

3-12

1 Q. If you have other criticism to offer  
2 we may as well have it. I am simply saying, as I hear  
3 that affidavit and as I read it, it seems to me that the  
4 criticism is (a) directed exclusively against Mr. Legge  
5 and not against the Board and (b) it is directed against  
6 the manner in which he deals with people rather than the  
7 manner in which he is able to do his work?

8 A. Yes.

9 Q. Do you question his competence in  
10 adjudication, sir?

11 A. I am not competent to comment on that.

12 Q. Do you offer any criticism about his  
13 competence, of his being an emissary of goodwill and a  
14 source of knowledge to other people from other countries  
15 about the functions of the Ontario Workmen's Compensation  
16 Board?

17 A. I would say that he does probably a  
18 very good job of that.

19 Q. Do you question his competence in the  
20 administrative field apart from the fact that he may rub  
21 people the wrong way to paraphrase your criticism?

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4/1

1 A. This is rubbing people the wrong  
2 way, sir ---

3 Q. My phrase but not yours?

4 A. Yes.

5 Q. But my question is, not to be  
6 sidetracked from the question, apart from this termin-  
7 ology that you may apply to that trait of his, do you  
8 question his administrative ability?

9 A. No, sir, not administrative.

10 Q. Certainly if you were in a mood  
11 for criticism you might have made a paragraph in your  
12 affidavit if there was such ground or criticism I  
13 suppose?

14 A. Yes.

15 Q. Would you agree with that?

16 A. Yes, sir.

17 Q. Now, would you also agree with  
18 me on this, sir; that having narrowed down the area  
19 of your criticism, would you agree with me that  
20 principally, and I don't say exclusively, principally  
21 it is a subjective impression of your own; that this  
22 is the way you, Marcus Dowding, see Bruce Legge?

23 A. I would say that there are many  
24 others that see him the same way, sir.

25 Q. Do you see the difficulty in  
26 that area, sir; is that it may well lead to what may  
27 be called hearsay rumblings and rumours or scuttlebutt?

28 A. Right, sir.

29 Q. And we may have no wish to have  
30 that thrust upon us?

4/2

A. Yes.

Q. I am simply saying, to narrow your testimony that all you say is, "I, Marcus Dowding, offer this personal criticism of Bruce Legge." I mean if we refine and try to define what you are saying to us, that is what you are doing?

A. Well, sir, all I can say is that that is not precisely what I am talking about.

Q. No, you would like to have it wider and to bring before the Committee I suppose some scuttlebutt, would you, that everybody says this, we all think this, but in essence what you are bringing before this Committee is what "I, Marcus Dowding, or how I, Marcus Dowding, assess Bruce Legge on a personal basis."

A. No, sir.

Q. What further are you bringing before us?

A. I believe that the affect of Mr. Legge on other people has a rather dampening effect upon the process of management within the Board.

Q. Well that's -- you start your remarks with, "I believe ..." That is a subjective opinion of Marcus Dowding, isn't it?

A. Yes, sir.

Q. And nothing more. Do you agree with me?

A. Yes, sir.

MR. DONNELLY: I have no further questions of this witness.

4/3

1 THE CHAIRMAN: Questions from the  
2 Committee?

3 MR. STOKES: I have one question I would  
4 like to ask the witness. In your affidavit you said  
5 that you had noped that two new members coming on the  
6 Board that the situation -- you had hoped the situation  
7 would change?

8 THE WITNESS: Yes, sir.

9 MR. STOKES: By inference then you are  
10 saying that the situation hadn't changed; is that right?

11 THE WITNESS: By the time I left, sir,  
12 I believe that certain people had come to positions of  
13 acceptance in terms of how to deal with the tension that  
14 existed, but I personally could see no change. I  
15 suppose really because I was no longer involved at  
16 that level.

17 MR. STOKES: So there was no improvement  
18 as a result of the arrival of two new  
19 members to the Board?

20 THE WITNESS: Not that I could visibly  
21 see, sir, myself.

22 MR. ALLAN: Mr. Chairman, I take it that  
23 Mr. Dowding resigned?

24 THE WITNESS: Yes.

25 THE CHAIRMAN: Mr. Miller?

26 MR. MILLER: Mr. Dowding, you refer to  
27 Mr. Draper using a recording device while talking on  
28 his telephone?

29 THE WITNESS: Yes.

30 MR. MILLER: Will you please tell me more  
about that?

4/4

1 THE WITNESS: It happened last year on  
2 two occasions; I walked into Mr. Draper's office and  
3 he was using a recording device and he stopped his  
4 conversation and I said, "I am sorry, Bill," and I  
5 walked out again and I think it was two or three days  
6 later I did the same thing. I did not overhear the  
7 conversation; I merely observed the device.

8 MR. MILLER: Will you tell me what you  
9 observed?

10 THE WITNESS: I observed Mr. Draper  
11 talking on the telephone with a suction cup device  
12 attached to the receiver and a tape recorder.

13 MR. MILLER: Did you ever discuss that  
14 with him?

15 THE WITNESS: No, sir.

16 MR. MILLER: Those are all my questions.

17 THE CHAIRMAN: Any other questions from  
18 Committee members?

19 Mr. Gaunt?

20 MR. GAUNT: Just one question. You refer  
21 in your affidavit to Mr. Brownell and his appointment.

22 THE WITNESS: Yes.

23 MR. GAUNT: Dr. Shulman has said in the  
24 Legislature that he didn't know this man. I am wondering  
25 what led you to the conclusion that Mr. Brownell was a  
26 friend of Dr. Morton Shulman.

27 THE WITNESS: Mr. Brownell offered this to  
28 me himself in the conversation I had with him in dealing  
29 with Dr. Shulman, because he was at one time president  
30 of the Employee Representation Plan and he told me this



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1 himself, and I believed him.

2 MR. GAUNT: All right.

3 THE CHAIRMAN: Mr. Rollins?

4 MR. ROLLINS: Mr. Chairman, one question  
5 concerning the attachment on the telephone when you  
6 walked in. Have you any knowledge or any way of indicating  
7 whether the machine was turned off or on on the occasions  
8 you have mentioned?

9 THE WITNESS: The tape was running, sir.

10 MR. ROLLINS: On both occasions?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: Mr. Newman?

13 MR. NEWMAN: That was my question.

14 THE CHAIRMAN: Any further questions  
15 from Committee members at this time?

16 Mr. Singer?

17 MR. SINGER: Yes. Mr. Dowding, you said  
18 in reading your affidavit that when controversial  
19 matters came up they were buried on the agenda and  
20 never again discussed or something to that effect; do  
21 you recall that?

22 THE WITNESS: Yes.

23 MR. SINGER: Have you any examples of  
24 such controversial matters that you brought forward or  
25 someone else brought forward that were never discussed?

26 THE WITNESS: The only one that I can  
27 remember immediately is a question which I was asked  
28 to prepare -- or a paper which I was asked to prepare  
29 which has to do with the number of injured workmen we  
30 employed ourselves, the rehabilitees if you like. I did



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1 some investigation into this and I was asked to take it  
2 with me to one of the meetings. But it never did see  
3 the light of day as far as I am concerned with me.

4 MR. SINGER: By whom were you asked to  
5 prepare this memorandum?

6 THE WITNESS: By the Chairman, sir.

7 MR. SINGER: By the Chairman?

8 THE WITNESS: Yes.

9 MR. SINGER: Did the Chairman know you  
10 had the memorandum available?

11 THE WITNESS: Well of course.

12 MR. SINGER: Was there anything con-  
13 demnatory in the memorandum?

14 THE WITNESS: Not that I could see.

15 MR. SINGER: Well, what was the point?  
16 Was there something being hidden or perhaps the  
17 Chairman had changed his mind and didn't want that  
18 information. Was that unusual?

19 THE WITNESS: No, not really. I think he  
20 changed his mind frequently around things like that,  
21 but my -- you see, this is the only -- I realize I have  
22 to think of things which I can remember very clearly  
23 and that is one which I can remember very clearly  
24 because it had specifically to do with myself.

25 MR. SINGER: But that particular one has  
26 no great significance so far as I can understand it?

27 THE WITNESS: I don't -- not really, no.

28 MR. SINGER: Are there any items that  
29 were never discussed that you feel had some significance  
30 and were varied?

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1 THE WITNESS: In terms of the Senior  
2 Officers meeting, sir? Is that what you are ---

3 MR. SINGER: Well, let's make sure we  
4 are talking about the same thing. As I understood your  
5 reading of your affidavit you stated or implied that  
6 from time to time the Chairman asked for reports on  
7 certain matters and when it became apparent that the  
8 reports were ready for discussion the matters were either  
9 put low on the agenda or not put on the agenda at all  
10 and the implication that came with that was that the  
11 hiding or burying of those items might have been  
12 embarrassing to someone and that is why they were  
13 varied.

14 THE WITNESS: Yes, and I believe this  
15 to be true, in some cases, but unfortunately I cannot  
16 personally recall any of those at the present time.  
17 The only one I can personally recall of immediacy or  
18 immediate past was my own.

19 MR. SINGER: That has no great significance  
20 as you told us?

21 THE WITNESS: Not really. It could have,  
22 but I suppose it would be very slightly. I think that  
23 the Board obviously would like to employ as many injured  
24 workmen as possible, sir, or have as many people in the  
25 Board that were disabled. I can't see that there is  
26 any ---

27 MR. SINGER: What happened to your  
28 report? Did it ever go beyond you or did it get into  
29 the stream and presumably be available for examination  
30 by the Board members?

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1 THE WITNESS: I believe it went to the  
2 Director of Employee Relations, Mr. Betts.

3 MR. SINGER: So it got into the stream,  
4 you made your report, it just wasn't ripped up or  
5 sat in a file desk, it was available?

6 THE WITNESS: I believe so, sir.

7 MR. SINGER: So there was no sort of  
8 scratching of what was in your report, no hiding?

9 THE WITNESS: No, not to me.

10 MR. SINGER: Mr. Brownell, that interests  
11 me too. I gather that once Mr. Brownell was given his  
12 promotion that Mr. Legge was very unhappy?

13 THE WITNESS: Yes.

14 MR. SINGER: Did he express his satisfacti  
15 to you personally?

16 THE WITNESS: Not personally, sir, no,  
17 he didn't.

18 MR. SINGER: Other than the secondhand  
19 information you received about his unhappiness did you  
20 observe anything that he was unhappy with Brownell?

21 THE WITNESS: I observed Mr. MacDonald's  
22 reactions on the morning the news got to Mr. Legge.

23 MR. SINGER: Not Mr. MacDonald's reactions  
24 What did you see -- did you see anything in Mr. Legge's  
25 reactions or in his remarks that indicated his un-  
26 happiness?

27 THE WITNESS: I didn't speak -- or Mr.  
28 Legge didn't speak to me about it personally, no, sir.

29 MR. SINGER: How long did you stay in  
30 the employ of the Board after Brownell was promoted?

4/9 1 THE WITNESS: I think that took place  
2 some time in July, June or July or August.

3 MR. SINGER: So you were there an  
4 extra six months?

5 THE WITNESS: Yes.

6 MR. SINGER: And other than MacDonald,  
7 did anyone express any concern about ---

8 THE WITNESS: Yes, they did, sir.

9 MR. SINGER: Who else?

10 THE WITNESS: Mr. Betts himself suggested  
11 to me that the Chairman suggested ---

12 MR. SINGER: Mr. Betts suggested some  
13 concern and who else?

14 THE WITNESS: Yes. Mr. Kerr himself  
15 expressed some concern that this happened.

16 MR. SINGER: But you never discussed it  
17 with Mr. Legge or he never discussed it with you?

18 THE WITNESS: No, he never mentioned it  
19 to me personally.

20 MR. SINGER: Did Brownell ever tell you  
21 that Mr. Legge had been unhappy about it or did Brownell  
22 know, or do you know if Brownell knew?

23 THE WITNESS: Yes, I think that Mr.  
24 Brownell knew because he himself suggested -- I think  
25 you misunderstand the character of Mr. Brownell. He is  
26 a very ---

27 MR. SINGER: I have no knowledge of his  
28 character at all, I don't know the gentleman.

29 THE WITNESS: No, he is a very good  
30 employee of the Board in my opinion, he has the Board's

4/10

1 good at heart, he was a very good Claims Officer, and  
2 he has -- I was going to say an aggressive spirit but  
3 I don't mean it in terms of pugilism -- he was a goer.  
4 And he also has a sense of humour and when he got ---

5 MR. SINGER: I am not interested really  
6 in Mr. Brownell's qualifications or lack of qualifications.  
7 I am interested in the incident.

8 THE WITNESS: Yes, I was about to say that  
9 he wryly suggested to me that he imagined that Mr.  
10 Legge would be a little disturbed that he got this job.

11 MR. SINGER: After the recommendation  
12 for the appoint of Brownell was made, did it not lie  
13 with the Board as a group of three or with the Chairman  
14 to refuse to accept the recommendation?

15 THE WITNESS: I suppose they could have  
16 done, sir, had they had in mind to, but normally that  
17 is handled by the manager of -- to report to, in this  
18 case the Rehabilitation Manager.

19 MR. SINGER: But that appointment had to  
20 be approved by the Board, didn't it, in some way or  
21 another or could have been disapproved by the Board?

22 THE WITNESS: It could have been dis-  
23 approved of.

24 MR. SINGER: It wouldn't have been final  
25 until the Board gave it some sort of imprimatur  
26 or ---

27 THE WITNESS: That wasn't always the  
28 case, sir. In some cases the Board was involved  
29 and in others it didn't have to go that high.

30 MR. SINGER: But if the Board was

4/11

1 seriously disturbed by this appointment it could have  
2 stopped it; there is no question about that?

3 THE WITNESS: I would suspect so, yes.

4 MR. SINGER: No further questions.

5 THE CHAIRMAN: Witness, did I hear you  
6 say that Mr. Brownell imagined that someone was  
7 disturbed?

8 THE WITNESS: He said that he felt or  
9 thought that Mr. Legge would probably be a little bit  
10 disturbed in his promotion.

11 THE CHAIRMAN: Mr. Lawlor?

12 MR. LAWLOR: Yes, Mr. Chairman. I am  
13 sure we all realize that in the ultimate analysis  
14 all our judgments about this world and what everybody  
15 else around us are perforce subjective. What we need  
16 is some kind of objective reference and some substantiation  
17 of the things that you have said in this thing, and I  
18 would like to in this vein try to draw you out a  
19 little as to what you mean by certain statements. The  
20 first one I would like to -- is the business of the  
21 tours. I mean you state that the Departments were  
22 alerted in advance. Were these on a fairly uniform and  
23 set basis?  
24  
25  
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27  
28  
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1 THE WITNESS: They would usually be -- I  
2 would say Fridays or holidays and sometimes there might  
3 be one when there was a high ranking visitor, Mr. Legge  
4 might wish them to accompany him through the building.

5 MR. LAWLOR: I can imagine that situation  
6 Were the departments taken singly, were they done alone  
7 by Mr. Legge just simply to see if they were up to  
8 scratch or not or what was going on inside the department.

9 THE WITNESS: I have no knowledge of that  
10 sir.

11 MR. LAWLOR: And the second thing that I  
12 have been after is you say there was a past agreement  
13 between executives, but nothing really of importance or  
14 anything should be discussed. Did you feel under  
15 obligation yourself not to make revelations, not to make  
16 disclosures of what was bothering you, problems operating  
17 in the Board?

18 THE WITNESS: I soon discovered, that  
19 going to those meetings one did not bring forth matters  
20 which were, shall we say, controversial.

21 MR. LAWLOR: I wanted some substantiation  
22 of that. Can you give us any incidences of these kinds  
23 of matters? Why did you learn this? Under what circum-  
24 stance?

25 THE WITNESS: I learned it after about six  
26 months, sir, by experience and by being -- having sugge-  
27 ed to me by Mr. MacDonald that maybe some of the things  
28 that I'd possibly bring up would be best not brought up

29 MR. LAWLOR: Did you keep any diary or  
30 notation or memos yourself as to grievances?

1 THE WITNESS: No, sir, I did not.

2 MR. LAWLOR: Also in your affidavit the  
3 business of the prepared memo that you used, that "I know  
4 other executives did comply with the request." What do  
5 you mean that you know that others did?

6 THE WITNESS: That I know others did, sir.

7 MR. LAWLOR: Did others that were said  
8 to have done it tell you so?

9 THE WITNESS: No, sir.

10 MR. LAWLOR: Who told you that?

11 THE WITNESS: Mr. MacDonald, sir.

12 MR. LAWLOR: Did you, by the way, consult  
13 -- if you were unable to get your complexities if you  
14 will or your difficulties of what you felt were matters  
15 that might have been controversial before the Board, you  
16 felt this way; were you then an isolated individual or  
17 did you consult with Mr. MacDonald or any other person  
18 other than the Board?

19 THE WITNESS: Oh, yes, sir, I would talk  
20 to Mr. MacDonald about it.

21 MR. LAWLOR: About your problems?

22 THE WITNESS: Yes.

23 MR. LAWLOR: Well did he recommend or  
24 disrecommend that it would be discussed?

25 THE WITNESS: It would depend on the  
26 subject, sir.

27 MR. LAWLOR: The final thing I want to  
28 mention is the business of the three cafeterias. The  
29 cafeterias were jocularly, I take it, as you say, were  
30 rooted as having three levels and there being an officers



5/3

1 mess etc., and a sergeants'mess. They weren't physicall  
2 segregated?

3 THE WITNESS: Only the executive one, sir,  
4 was physically separated by a door, but the sergeants'  
5 mess was separated from the body of the cafeteria by a  
6 curtain.

7 MR. LAWLOR: Was this in your own mind onl  
8 that you thought rather ironically that there were three  
9 echelons here and that the tribes outside the law should  
10 not meet -- should not come into contact with one anothe  
11 Was this basically your own response to the thing or hav  
12 you any greater basis than that?

13 THE WITNESS: Oh, I think -- yes, there  
14 were other people who mentioned it in passing, sir. Not  
15 only that of course but it added to the cost of the  
16 operation of running three cafeterias like that is some-  
17 what more expensive I think.

18 MR. LAWLOR: That is all for the moment,  
19 thanks.

20 THE CHAIRMAN: Mr. Allan?

21 MR. ALLAN: I was just going to ask Mr.  
22 Dowding, I take it you reported to Mr. MacDonald?

23 THE WITNESS: I did, sir.

24 MR. ALLAN: And this was -- there was a  
25 definitend understanding of this and the procedure that  
26 was followed out in this. You didn't report to Mr.  
27 Legge?

28 THE WITNESS: No, I didn't report to Mr.  
29 Legge, sir.

30 THE CHAIRMAN: Anything further, Mr. Allan

1 MR. ALLAN: No.

2 THE CHAIRMAN: Mr. Stokes?

3 MR. STOKES: Mr. Dowding, you mentioned  
4 that the Chairman was very difficult and unpredictable.  
5 In what ways was he unpredictable?

6 THE WITNESS: He would have different views  
7 on people from almost day to day.

8 MR. STOKES: Was this feeling manifest in  
9 its dealings with other members of the Board or were  
10 people working on the Board or at the Board?

11 THE WITNESS: I am not quite sure -- you  
12 mean the echelon structure here?

13 MR. STOKES: Yes.

14 THE WITNESS: I would say that it was with  
15 the Board and with the departmental managers and perhaps  
16 some of the more -- the people who reported to them and  
17 the administrative people.

18 MR. STOKES: But you said that the situation  
19 was that they were all honourable people, but the  
20 situation was untenable. Would you like to elaborate  
21 a little more on that?

22 THE WITNESS: Well, yes. I felt that my  
23 particular field of knowledge, I suppose, in terms of my  
24 profession is more in what are commonly referred to as  
25 the behavioural sciences which is a natural phrase in  
26 many ways. I got to a point where I felt that it was  
27 rather difficult to accomplish very much, apart from  
28 which of course there was a change made in the top  
29 managerial groupings when with the addition of Mr. Betts  
30 on the staff in, I think, February. Mr. Betts is a man

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1 of high standing in terms of industrial relations. I  
2 felt that I was in a position which was somewhat diffi-  
3 cult; that I had been told by Mr. MacDonald and Mr. Kerr  
4 by Mr. Betts -- of his appointment and this was of 1970  
5 I gather -- yes, 1970, and I felt that the one to one  
6 relationship had been a little bit difficult because it  
7 had occurred to me that I could no longer carry on doing  
8 the kind of work that I had been doing obviously because  
9 this was an untenable situation as far as I was concerned.  
10 It was also obvious to me that Mr. Betts was getting some-  
11 perhaps, shall we say, adverse comment from Mr. Legge  
12 regarding my performance. Mr. Betts told me this himself:  
13 There is no secret there.

14 MR. STOKES: Was there any occasion on  
15 which Mr. Legge himself expressed his displeasure with  
16 your work?

17 THE WITNESS: No, sir.

18 MR. DONNELLY: May I comment, sir, that  
19 if we speak of hearsay there is an example right there;  
20 "Mr. Betts told me this is so," and then it comes before  
21 you as a fact rather than as something said.

22 MR. STOKES: Of your knowledge did anybody  
23 else leave the Board because they felt the situation was  
24 untenable?

25 THE WITNESS: Well here again we have  
26 hearsay, don't we? Mr. Donnelly was pointing this out.

27 MR. LAWLOR: Mr. Chairman, I don't think  
28 -- if I may, of this business of hearsay, I think a word  
29 should be said about it. This Committee is a blue ribbon  
30 -- well, as it were it would be blue ribbon, but the

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1 fact is as long as we are aware of hearsay all Royal  
2 Commissions, etc., accept hearsay as evidence. It is  
3 not a courtroom. The point is that we must weigh it in  
4 our minds, discount it if we will, and give it what it  
5 is worth. Secondly, it can be subject to cross-examination  
6 in terms of Mr. Betts. In other words, he may deny it,  
7 and if that is the case, fine. So I don't think it is  
8 all that tenuous, you know, and questionable.

9 MR. STOKES: Well let me rephrase the  
10 question: Of your knowledge do you know of anyone who  
11 left the Board because the situation had become untenable  
12 for them?

13 THE WITNESS: Do you mean have I met the  
14 person and discussed it with them and they have told me  
15 that?

16 MR. STOKES: Yes.

17 THE WITNESS: Yes, sir, I would say that  
18 Mr. Don Brown is in that category.

19 MR. STOKES: What position had he held?

20 THE WITNESS: He was involved in the public  
21 relations field, I believe.

22 MR. STOKES: Is there anyone else that  
23 you can recall?

24 THE WITNESS: Yes, sir, Mr. Tanian.

25 MR. STOKES: What position did he hold?

26 THE WITNESS: He was the head of the  
27 Commissions Service category similar to Mr. Brown.

28 MR. STOKES: Did they express similar  
29 apprehensions about their future value to the Board as  
30 a result of this untenable situation?

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1 THE WITNESS: Yes, sir.

2 THE CHAIRMAN: Mr. Miller?

3 MR. MILLER: Mr. Dowding, you mentioned  
4 you were a student of the behavioural sciences?

5 THE WITNESS: Yes, sir.

6 MR. MILLER: Well, I am going to look at  
7 some of the comments you have made for interpretation  
8 as much as anything else because, as stated -- I am not  
9 sure how you meant them -- well one of the things in the  
10 behavioural sciences would refer to your comment about  
11 Mr. Legge looking at people differently day by day. Do  
12 you always look at people the same way?

13 THE WITNESS: No. If that is the impress-  
14 ion I left I am sorry. What I meant by that was the  
15 unprotectable attitude toward the person.

16 MR. MILLER: I have even been mad at my  
17 wife once in a while.

18 THE WITNESS: I am sure, many times.

19 MR. MILLER: I would like to look at a few  
20 other comments, though. "The fact is the Workmen's  
21 Compensation Board is run like a part of the Department  
22 of National Defence." What do you mean by that?

23 THE WITNESS: I mean, sir, that there is a  
24 very rigid order there of hierarchical structure.

25 MR. MILLER: Is that bad?

26 THE WITNESS: I would say that in certain  
27 instances it can become extremely suppressive and it can  
28 inhibit persons from giving their true opinions and  
29 acting in the way that they feel they should.

30 MR. MILLER: In other words, it is a syste



1 for some people and not for others?

2 THE WITNESS: Yes.

3 MR. MILLER: "Various departments are  
4 alerted in advance to inspections carried out by the  
5 Chairman. It is understood everything must be in order."  
6 How do I interpret that?

7 THE WITNESS: Well, there must be no-- what  
8 shall we say -- all the tops of the cabinets and so forth  
9 and so on must be pretty clear and it has the air of a  
10 military inspection is the ---

11 MR. MILLER: What I am trying to get through  
12 my mind is if a person is responsible for a company is  
13 it bad to be asked for things to be in order?

14 THE WITNESS: No, I don't think it is at  
15 all. It is the manner of---

16 MR. MILLER: What is the relevance then  
17 of the term? Why is it here?

18 THE WITNESS: I think it makes people feel  
19 afraid, sir, that's what I think.

20 MR. MILLER: Three cafeterias. "We  
21 apparently separate people according to their work  
22 function." Is this unusual in industry?

23 THE WITNESS: In my experience, sir, yes.

24 MR. MILLER: Would you think that at the  
25 average high school you would find a staff cafeteria  
26 versus a student cafeteria?

27 THE WITNESS: I have no idea, sir. I'm  
28 not familiar with the average high school.

29 MR. MILLER: I would think you would. I  
30 could certainly say George Brown College nearby does this.

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1 What I am trying to point out is, by stat-  
2 ing this are we making this a unique situation or is it  
3 something generally practiced by business?

4 THE WITNESS: Not in my experience it isn't

5 MR. MILLER: I can only counter in saying  
6 in mine it is.

7 That is all the questions I have.

8 THE CHAIRMAN: Mr. Ferrier?

9 MR. FERRIER: Yes, I have two or three  
10 questions I would like to put to Mr. Dowding. You  
11 mentioned in giving your testimony that about two years  
12 after your joining the Board that you put these things  
13 to Mr. Legge directly. Now, did you request a meeting  
14 with him to discuss certain matters?

15 THE WITNESS: No, I didn't. Mr. Legge  
16 wrote me -- again Mr. Legge is in the habit of cutting  
17 from various magazines, etc., and sending them to various  
18 people in the Board for comment, and this particular  
19 article had to do with behaviour and attitude and I made  
20 a comment at the end of the article which went something  
21 like, "Since you and I may not completely agree upon  
22 managerial concepts perhaps this memo is an exercise in  
23 futility." Mr. Legge called me up and wanted to know  
24 what that meant and I said, "Well, it just might be an  
25 exercise in futility because we don't seem to realize  
26 that there are a lot of people who are somewhat anxious  
27 because of the manner in which you sometimes behave."  
28 Mr. Legge was extremely interested and extremely polite  
29 and we had a long chat about it and I think he finished  
30 up after a couple of hours by saying, "We certainly

1 didn't want to sit there psychoanalyzing each other," and  
2 I'm certainly not to do that in any case. And I left and  
3 in the morning Mr. MacDonald called me up and asked me  
4 what on earth I had said because Mr. Legge was in a state  
5 of confusion if I may say and he didn't really under-  
6 stand what I tried to get at. So I feel that I had faced  
7 with Mr. Legge with the way I felt about my observations  
8 about people's behaviour due to what I felt was his kind  
9 of attitude.

10 MR. FERRIER: You brought up such things  
11 then as these meetings for new employees and the general  
12 manner in which they were conducted; is this the type  
13 of thing you discussed?

14 THE WITNESS: Yes. That sort of thing, but  
15 it was more on the level of the people at the top of the  
16 organization and on the floor of which I call the  
17 executive set.

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MR. FERRIER: About tensions?

THE WITNESS: That's right, tensions, anxieties and so on.

THE CHAIRMAN: Mr. Allan?

MR. ALLAN: Mr. Chairman, I am having a little difficulty in understanding just why or the reason for your coming in contact with Mr. Legge as much as you did. You were a Director of Personnel, were you?

THE WITNESS: Yes, sir, I was up until ---

MR. ALLAN: And you were reporting to Mr. MacDonald?

THE WITNESS: Yes.

MR. ALLAN: And I should think in the carrying out of your responsibilities that was -- he was the superior or the senior officer to whom you were reporting?

THE WITNESS: That's right, sir.

MR. ALLAN: And I am wondering, did Mr. Legge become involved in the way in which you carried out your duties as a personnel -- Director of Personnel?

THE WITNESS: Now and again he would comment, sir, personally, but it was usually through Mr. MacDonald.

MR. ALLAN: Well then I -- was there any interference with your carrying out of your responsibilities as Director of Personnel; did Mr. MacDonald give you a fairly free hand?

THE WITNESS: I think that Mr. MacDonald gave me as free a hand as he could, sir, yes. Mr. Legge

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1 interference, if that is the word, usually related to  
2 the type of people we hired.

3 MR. ALLAN: Well I am wondering how Mr.  
4 Legge, from his position, was able to familiarize himself  
5 with the quality of the people he hired.

6 THE WITNESS: That I don't know, sir,  
7 except that during the last two years, maybe more than  
8 that, he would come down to the induction ceremony which  
9 we had when Board employees had been there for three  
10 or four weeks, if people would get together and meet  
11 with their managers and have a cup of coffee and Mr.  
12 Legge would come down and then have a chat with them  
13 sometimes.

14 MR. ALLAN: But so far as Mr. MacDonald  
15 was concerned you thought that you were carrying out  
16 your duties in a satisfactory way?

17 THE WITNESS: Yes.

18 THE CHAIRMAN: Mr. Deans?

19 MR. DEANS: Thank you, Mr. Chairman. I am  
20 sorry I was late this morning. I had another engagement.

21 In the matter of hiring of senior  
22 personnel -- I have a number of things to talk with  
23 you about but most of them will wait until after lunch.  
24 In the hiring of senior personnel there has been a lot  
25 said about the numbers of former military people hired  
26 by the Board?

27 THE WITNESS: Yes.

28 MR. DEANS: Did those people apply for a  
29 job? Did you advertise jobs and did you apply for  
30 them or how did they become aware of the fact that there

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1 were positions open with the Board?

2 THE WITNESS: I think some of them became  
3 aware of it by sometimes advertisements and sometimes  
4 by word of mouth.

5 MR. DEANS: By word of mouth. They just  
6 dropped by and said they understand this position is  
7 open?

8 THE WITNESS: Or it was suggested to me  
9 that maybe I should interview such and such a person  
10 who was ---

11 MR. DEANS: Was that particular attitude  
12 followed very often that it was suggested to you that  
13 you ought to perhaps interview so and so because he  
14 might fit the bill?

15 THE WITNESS: Quite often, sir, yes, it  
16 occurred.

17 MR. DEANS: Did it occur more often in  
18 senior positions than in more intermediate and junior  
19 positions?

20 THE WITNESS: Well of course the openings  
21 in terms of senior positions were not as frequent.

22 MR. DEANS: Yes.

23 THE WITNESS: I would say the public were  
24 more often in the intermediate positions or the next  
25 echelon or even below that.

26 MR. DEANS: Who normally would look  
27 forward and suggest that so and so would be able to do  
28 the job? Would it come from all sorts of different  
29 people or would these suggestions come from any particular  
30 individual?

1 THE WITNESS: I am sorry, sir, I don't  
2 understand your question.

3 MR. DEANS: In other words, was Mr.  
4 MacDonald in the habit of when a position was open  
5 dropping by saying let me be here for interview or  
6 arrange to interview so and so, "It seems to me he has  
7 good qualifications."

8 THE WITNESS: I can only recall maybe on  
9 a couple of occasions I had with Mr. MacDonald.

10 MR. DEANS: How about Mr. Hamilton?  
11 You were there when Mr. Hamilton was there?

12 THE WITNESS: Yes, I was. I think it  
13 happened once or twice with Mr. Hamilton. Again it  
14 was very, very rare, I know that.

15 MR. DEANS: And the other members of  
16 the Board, Mr. Decker and Mr. Legge, was it frequent  
17 or infrequent?

18 THE WITNESS: It was infrequent. Mr.  
19 Legge would very often ask me to have a chat with so  
20 and so.

21 MR. DEANS: Who did you recommend the  
22 hiring to after you made this interview? When a  
23 position became open and there were perhaps two or  
24 three applicants, is it customary for the Board to  
25 advertise all the positions that are open?

26 THE WITNESS: That would depend on the  
27 position and the system within the Board. We have a  
28 posting for jobs. In other words, the first step that  
29 we would take would be to probably post the position  
30 and have a look at the background.

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1 MR. DEANS: But that was an internal  
2 appraisal of the Board?

3 THE WITNESS: That's right. And then if  
4 we couldn't seem to get the right type of person within  
5 the organization we would advertise.

6 MR. DEANS: Was it frequent that you  
7 advertised? Did you advertise in all of the, let's say,  
8 medium management positions, are they all advertised or  
9 posted?

10 THE WITNESS: No.

11 MR. DEANS: What is the procedure that  
12 is followed?

13 THE WITNESS: Well ---

14 MR. DEANS: Let me ask in your own case  
15 when you left the Board; was your job advertised?

16 THE WITNESS: No.

17 MR. DEANS: Was it posted?

18 THE WITNESS: Not that I am aware of.

19 MR. DEANS: How about other people at  
20 the Board? How other -- specific examples -- I obviously  
21 don't know how it is done, but let me take the Chief  
22 Medical Officer of the Board; when he left -- I believe  
23 Dr. Steele was the Chief Medical Officer or one of  
24 the medical officers?

25 THE WITNESS: Yes.

26 MR. DEANS: When he left was the position  
27 advertised or posted?

28 THE WITNESS: I couldn't answer that  
29 question, sir, because the medical side of the Board's  
30 operation is somewhat unique I would think.

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1 MR. DEANS: When the Board decided to  
2 form -- to set up -- are there many new positions at  
3 the Board, like say have there been a number of new  
4 positions established in the last three years or four  
5 years, or have you still got pretty well the same  
6 structure you had?

7 THE WITNESS: I am just trying to think  
8 through this one because it is quite a large operation.

9 MR. DEANS: I am thinking more in the  
10 management or semi-management level, supervisors.

11 Let me leave it then until after lunch.

12 THE WITNESS: I haven't really ---

13 MR. DEANS: Let me leave it until after  
14 lunch. It is 12:00 o'clock and perhaps you can consider  
15 it and I will ask it again.

16 THE CHAIRMAN: We are adjourned until  
17 3:00 or shortly thereafter as is possible.

18 --- Upon recessing at 12:00 noon.  
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1 --- Upon resuming at 3:20 p.m.

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3 MARCUS DOWDING, Resumed:

4  
5 THE CHAIRMAN: I call this meeting to order.  
6 We will carry on with where we left off at the noon hour.

7 Mr. Deans, did you have further questions  
8 of the witness?

9 MR. DEANS: Yes, two or three, Mr. Chairman.

10 I wondered if perhaps Mr. Dowding had an  
11 opportunity during the lunch hour to consider the question  
12 that I asked of him just before the break at 12:00 o'clock?

13 THE WITNESS: That was to do with new  
14 appointments and restructuring?

15 MR. DEANS: Yes.

16 THE WITNESS: I can recall one new position  
17 which was the director of information services which was  
18 filled in March 1969. Before that time no such title or  
19 function existed. The function as it was created covered  
20 the fields of advertising, public relations, public infor-  
21 mation and library services for the Board. Before my  
22 arrival, I believe that there were some principal officer  
23 posts constructed which did not exist before but I can only  
24 talk to that from what I have heard. They were already  
25 there when I arrived.

26 MR. DEANS: Can I ask you then, in the case  
27 that you have raised, the director of information services,  
28 how was the position filled? What was the procedure  
29 followed to determine who was best suited and how was it  
30 filled?





1 THE WITNESS: It was advertised through  
2 some consultants, I believe, sir.

3 MR. DEANS: And you simply interviewed the  
4 people that they sent and hired one of them?

5 THE WITNESS: I didn't interview them, sir.

6 MR. DEANS: You did not interview them?

7 THE WITNESS: No.

8 MR. DEANS: Who interviewed them?

9 THE WITNESS: Mr. MacDonald, I believe,  
10 and Mr. Legge.

11 MR. DEANS: Would that normally not fall  
12 under your scope?

13 THE WITNESS: Yes, sir.

14 MR. DEANS: Is there any reason why you  
15 weren't involved in the interview, since you were the  
16 person who obviously -- did you ask?

17 THE WITNESS: No, sir.

18 MR. DEANS: You didn't?

19 THE WITNESS: No.

20 MR. DEANS: You mentioned before lunch that  
21 there were occasions when it was suggested perhaps that  
22 you would like to interview someone or someone else. Did  
23 you invariably recommend the hiring of those people?

24 THE WITNESS: No, sir, I did not.

25 MR. DEANS: Invariably recommended against  
26 hiring them?

27 That is unfair. You don't have to answer  
28 that. Were those people hired with or without your  
29 recommendation?

30 THE WITNESS: There were a couple of people



1 | who had been hired who I didn't even know about, sir.

2 |                   MR. DEANS: Were you interviewing for the  
3 | jobs and they were hired in spite ---

4 |                   THE WITNESS: No, these were some more  
5 | recent than that. There were two people hired in somewhat  
6 | different positions from top level executive without my  
7 | knowledge.

8 |                   MR. DEANS: Would you consider that to be  
9 | a normal relationship that persons would be hired without  
10 | the knowledge of the personnel director?

11 |                   THE WITNESS: No, sir, I do not.

12 |                   MR. DEANS: Did you feel that that contri-  
13 | buted to your feeling about the operation?

14 |                   THE WITNESS: Yes.

15 |                   MR. DEANS: How were they hired or do you  
16 | know?

17 |                   THE WITNESS: Well, they suddenly appeared  
18 | and there they were.

19 |                   MR. DEANS: Are they still employed?

20 |                   THE WITNESS: As far as I know; they were  
21 | when I left.

22 |                   MR. DEANS: Not in senior positions?

23 |                   THE WITNESS: No, sir.

24 |                   MR. DEANS: There have been a number of  
25 | statements made and they haven't been denied in regard to  
26 | the numbers of persons hired who had military connections.  
27 | Was that one of the questions that was asked of persons  
28 | before they were hired?

29 |                   THE WITNESS: Well I never asked it, sir.

30 |                   MR. DEANS: It wasn't on the normal -- the



1 normal course of interviewing, sort of one of the things  
2 that was developing?

3 THE WITNESS: No, what normally happened is  
4 if a person did have a military background, he would give  
5 this information.

6 MR. DEANS: It never appeared to be a good pre-  
7 requisite. You mentioned, Mr. Dowding, in an article --  
8 I believe you mentioned and correct me if you didn't -- I  
9 haven't got time just to go over it quickly. I believe it  
10 was mentioned -- if not by you by someone else -- that the  
11 discussions between persons -- Mr. Decker, for example --  
12 and top management people and middle management people had  
13 to be relayed to Mr. MacDonald by way of a memo or some  
14 other method. Are you familiar with that at all?

15 THE WITNESS: I am only familiar with it when  
16 Mr. Decker and Mr. Hamilton came to the Board, sir.

17 MR. DEANS: And were you ever instructed --  
18 and I want to make it clear -- were you personally ever  
19 instructed to inform anyone of conversations that you had  
20 with either Mr. Hamilton and Mr. Decker or, for that matter,  
21 with anyone else other than in the normal course of inter-  
22 viewing for employment purposes?

23 THE WITNESS: No, sir. The only time that  
24 that ever happened was when Mr. MacDonald requested, as I  
25 said this morning, requested would I like to write down  
26 a comment on my conversation with Mr. Decker and I refused;  
27 that is the only time I can ever remember that happening.

28 MR. DEANS: Could you recall whether you  
29 inquired if that was a prerequisite of conversations  
30 Mr. Decker had with other employees? Were there other



1 employees asked to do similarly that you know of?

2 THE WITNESS: Other principal officers were,  
3 sir.

4 MR. DEANS: How do you know that?

5 THE WITNESS: Mr. MacDonald told me so.

6 MR. DEANS: Mr. MacDonald told you that he  
7 asked other principal officers to make memo's of conver-  
8 sations with Mr. Decker?

9 THE WITNESS: Yes.

10 MR. DEANS: Did he say why?

11 THE WITNESS: Yes, sir. He said that  
12 Mr. Legge wished to be informed.

13 MR. DEANS: Did you discuss this with  
14 Mr. Legge?

15 THE WITNESS: No, sir.

16 MR. DEANS: Did you discuss it with any  
17 other principal officers of the Board?

18 THE WITNESS: No, sir.

19 MR. DEANS: You simply refused to do it?

20 THE WITNESS: Yes, sir.

21 MR. DEANS: In the matter you mentioned  
22 this morning, I understand, of personally seeing Mr. Draper  
23 with apparatus -- I believe you said a suction cup apparatus?

24 THE WITNESS: It is the only way I can  
25 describe it, sir.

26 MR. DEANS: I know what you mean but I want  
27 to be sure I was quoting you reasonably accurately and I  
28 wasn't here. You saw him on two occasions using this  
29 apparatus for taping purposes. How close were you to  
30 Mr. Draper, Mr. Dowding?





1 THE WITNESS: I would be at his desk and  
2 his desk would be as far as that one over there.

3 MR. DEANS: You could see without question  
4 the machine that was attached to the -- the suction cup  
5 that was attached to the telephone was in fact operating?

6 THE WITNESS: Yes.

7 MR. DEANS: There is no doubt in your mind?

8 THE WITNESS: No doubt in my mind at all,  
9 sir.

10 MR. DEANS: Did you ever see any other type  
11 of equipment in any other office?

12 THE WITNESS: No, sir.

13 MR. DEANS: Did you think at the time that  
14 this was unusual?

15 THE WITNESS: I must confess, I felt somewhat  
16 puzzled.

17 MR. DEANS: Did you mention it to Mr. Draper?

18 THE WITNESS: No, sir, I did not.

19 MR. DEANS: Did you mention it to Mr. MacDonald?

20 THE WITNESS: No, sir, I did not.

21 MR. DEANS: Did you mention it to anyone?

22 THE WITNESS: No.

23 MR. DEANS: Now, much of what you said --  
24 I will come back to that perhaps in a moment -- much of  
25 what you said about your views of the Board operations  
26 centre around your opinion of Mr. Legge's attitude?

27 THE WITNESS: Yes.

28 MR. DEANS: --- towards employees and persons  
29 at the Board?

30 THE WITNESS: Yes.



1 MR. DEANS: How long have you been in the  
2 business of personnel?

3 THE WITNESS: Since 1949, sir.

4 MR. DEANS: Have you worked for any large  
5 corporations?

6 THE WITNESS: Yes, I have.

7 MR. DEANS: You have worked -- had you ever  
8 worked with any other corporations with the government?

9 THE WITNESS: I worked for the University  
10 but that's a little different.

11 MR. DEANS: You have some fairly broad  
12 knowledge then and background of the general procedures  
13 used by people in their day to day handling of personnel  
14 problems?

15 THE WITNESS: Yes, sir, I have.

16 MR. DEANS: Do you believe that -- well,  
17 let me try another way -- I am trying not to lead you into  
18 saying anything that you might not want to say -- do you --  
19 in your discussion or in your view of Mr. Legge's attitude,  
20 how would you describe an attitude? How would you go about  
21 describing Mr. Legge's attitude as opposed, for example,  
22 to Mr. Hamilton's attitude? Let me ask you to compare the  
23 two attitudes and tell me what you think.

24 THE WITNESS: I would say that the attitude  
25 of Mr. Legge's, sir, was unpredictable from day to day,  
26 whereas Mr. Hamilton, you would get a very definite sameness  
27 of attitude.

28 MR. DEANS: Did you think that attitude --  
29 you mentioned, as I understand it, in questioning from  
30 counsel that -- I am just trying to get it straight -- that



1 you thought that Mr. Legge was a good administrator; was  
2 that the correct term that you used?

3 THE WITNESS: Yes, I believe it was.

4 MR. DEANS: Do you not feel that this problem  
5 of attitude would be reflected in administrative abilities?

6 THE WITNESS: I think it would be reflected  
7 in the results.

8 MR. DEANS: Do you think -- do you differ-  
9 entiate between relationships and administrative ability?  
10 Do you think it possible to administer without having a  
11 direct relationship of the people over whom you administer  
12 or to whom you administer?

13 THE WITNESS: I think anybody, in a militar-  
14 istic sense, can administer a large force without having a  
15 completely direct relationship, yes.

16 MR. DEANS: It is possible to sit somewhat  
17 remote in the day to day operations and to administer well  
18 and yet coming into contact on a day to day basis have a  
19 rather strained relationship?

20 THE WITNESS: Yes.

21 MR. DEANS: In your experiences outside the  
22 Workmen's Compensation Board, have you noticed any similar  
23 operations and similar characteristics -- I am not going to  
24 ask you who, by the way.

25 THE WITNESS: No, sir, I haven't.

26 MR. DEANS: You haven't. Do you think that  
27 this contributed significantly to what appears or what has  
28 been at least mentioned as a degree of fear within the  
29 Board?

30 THE WITNESS: Yes, I do.



1 MR. DEANS: You think that it was the  
2 inconsistent nature of Mr. Legge's personal relationship  
3 rather than any single thing that he did?

4 THE WITNESS: Yes.

5 MR. DEANS: Do you attach any significance  
6 to the statement that there were -- that prior to an  
7 inspection -- and that may not be the proper term -- that  
8 prior to Mr. Legge's arrival in the department, for whatever  
9 purpose, there was a general flurry and tidying up of  
10 operations?

11 THE WITNESS: Yes, there was; there was in  
12 our department when that occurred.

13 MR. DEANS: When Mr. Hamilton and Mr. Decker  
14 dropped by, did you feel compelled to go through, or did  
15 your department feel compelled to go through this same  
16 general review of procedures?

17 THE WITNESS: No, sir.

18 MR. DEANS: Did Mr. Legge ever mention that  
19 he felt that the department wasn't running well?

20 THE WITNESS: The personnel department?

21 MR. DEANS: Well, we are using yours as an  
22 example.

23 THE WITNESS: The matter of choice of an  
24 individual was the most outstanding problem that we had in  
25 that respect, the criticism of the kind of people that we  
26 hired, and the fact is that the personnel department in a  
27 way is a screening agency and gives advice to supervisors  
28 after they in fact indicate having interviewed a person  
29 who is up for the job and our job really is to comment on  
30 what really we feel about the person.





1 MR. DEANS: Did you get the general feeling  
2 or do you have any knowledge of any feeling on the Board  
3 that it wouldn't be good for Mr. Legge to see the Board as  
4 it really operated on a day to day basis but, rather, as  
5 he would like to have believed it to operate?

6 THE WITNESS: I am sorry ---

7 MR. DEANS: I will try again. The question  
8 is really in relation to what I have just asked. Since  
9 there had to be a sort of general order around, "Look out,  
10 here he comes," that may not be your phrase, that is mine,  
11 and people scurry around and clean up and make sure things  
12 are okay, and did you have a feeling that if they were  
13 left that there would be some repercussions, if things just  
14 went along as they normally do and he walked in that there  
15 would be repercussions?

16 THE WITNESS: Yes, there was that feeling.

17 MR. DEANS: Was there ever any indication  
18 of this? Was there ever any clear episode where this  
19 occurred?  
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1 THE WITNESS: No, sir.

2 MR. DEANS: Do you think the people at the  
3 Board were sufficiently close to the administration to  
4 understand really what the administration was all about?

5 THE WITNESS: You mean the people who  
6 actually perform the work of claims and so forth?

7 MR. DEANS: People who actually perform  
8 the work. Do you think there was any relationship be-  
9 tween the people who do the work and people who administer,  
10 people who make the administration, were sufficiently  
11 close to really know what Bruce Legge was like or what  
12 Doug Hamilton was like or what Mr. Decker was like?

13 THE WITNESS: I think that is extremely  
14 difficult. I don't think that they really, really know  
15 and there have been attempts to do this by a series of  
16 articles in a magazine regarding this.

17 MR. DEANS: You reported to the Board  
18 through Mr. MacDonald?

19 THE WITNESS: Yes.

20 MR. DEANS: You mentioned an interview  
21 you had with Mr. Legge at which time you outlined your  
22 feelings about the administration?

23 THE WITNESS: That's right.

24 MR. DEANS: Mr. MacDonald was supposed  
25 to have gone back to you and ask what you did and why  
26 did Mr. MacDonald feel compelled to go back to you?

27 THE WITNESS: Well apparently what happened  
28 was that this took place in an afternoon and what happened  
29 was that Mr. Legge called Mr. MacDonald in after I had  
30 discussed the matters with Mr. Legge and in the morning



1 Mr. MacDonald called me up and asked me what had I said  
2 which was really no more than confronted him with the  
3 way that I observed his effect upon other people and  
4 other principal officer level and this was a feedback  
5 from Mr. MacDonald.

6 MR. DEANS: Were you ever asked by other  
7 members of the Board for your views on the operation of  
8 the Board?

9 THE WITNESS: When Mr. Decker and Mr.  
10 Hamilton arrived we had discussions regarding the sort  
11 of generalities about the operation and day to day  
12 running of the Board in terms of hiring procedures and  
13 structure and so on.

14 MR. DEANS: Did Mr. MacDonald approach you  
15 after those meetings to find out what you said?

16 THE WITNESS: No, sir.

17 MR. DEANS: This only occurred in relation  
18 to the discussion you had with Mr. Legge?

19 THE WITNESS: Yes.

20 MR. DEANS: May I ask you a question in  
21 regard to a statement attributed to you? Did you make  
22 this statement as quoted in the Globe and Mail on page  
23 4 on April the 21st -- sorry, Friday, April the 21st --  
24 I am away behind the times -- "For example, he would ask,

25 'Are you here to work or are you here  
26 for the security? Do you believe in  
27 the profit motive?'"

28 What significance do you attach to that particular  
29 question?

30 THE WITNESS: Well, I believe that it is a



1 rather -- it is the manner in which those kinds of  
2 questions were framed. There was nothing intrinsically  
3 wrong specifically with that question, but it is my  
4 feeling that to ask a new employee in a rather legalistic  
5 manner those kinds of questions that it is going to cause  
6 them some degree of anxiety.

7 MR. DEANS: You went on, sir, apparently --  
8 you are reported to have said, "He had no patience with  
9 people who held views on any matter  
10 that did not coincide with his."

11 Other than your own discussion with him that day do you  
12 have any concrete proof of that statement or is that  
13 simply a view that you have?

14 THE WITNESS: I have nothing documented  
15 whatsoever, sir, but he would very often talk about other  
16 people's views.

17 MR. DEANS: He did speak about other  
18 people's views?

19 THE WITNESS: Well, in the principal  
20 officers meetings quite often this would occur.

21 MR. DEANS: This principal officers meeting,  
22 I can't help thinking as a result of what you have said  
23 that if the other principal officers felt as you did or  
24 many of them that there wasn't much point to raising  
25 anything that was going to raise the eye of Mr. Legge,  
26 they must have been a little strained?

27 THE WITNESS: They were.

28 MR. DEANS: What value then came from  
29 principal officers meeting where the principal officers  
30 were unable to or felt unable to express their opinions?





1 THE WITNESS: I think that Mr. Legge used  
2 many of them as perhaps a learning tool in terms of  
3 discussing various subjects which may or may not have  
4 had any bearing on the Board operation.

5 MR. DEANS: You make the statement in  
6 regard to the principal officers meetings that you said,

7 "There is a tacit agreement between  
8 executives that nothing of any real  
9 importance can or should be discussed.

10 The real issues that should be  
11 discussed are always hidden. Execut-  
12 ives regard it as a helpless exercise  
13 to bring them up because the Chairman  
14 would order them put on the agenda of  
15 a future meeting and the more contro-  
16 versial ones were never again dis-  
17 cussed."

18 THE WITNESS: I think there is a typographic-  
19 al error in that, sir. It should be "hopeless", not  
20 "helpless".

21 MR. DEANS: "Hopeless"? I accept the  
22 change. Other than that typographical error you believe  
23 that statement to be an accurate reflection of your  
24 relationship with the other principal officers and their  
25 relationship with the Board?

26 THE WITNESS: Yes, sir. I would usually  
27 personally check it out with Mr. MacDonald the kinds of  
28 things that perhaps I could reasonably talk about and  
29 maybe that I shouldn't.

30 MR. DEANS: Was it Mr. MacDonald that



1 generally made the suggestion or decision as to what  
2 sorts of things should be brought up and what sorts of  
3 things should be left alone?

4 THE WITNESS: I think that he bore a  
5 rather heavy load in deciding which should and which  
6 shouldn't, yes.

7 MR. DEANS: It says, "Many times executives  
8 were requested to report on a specific  
9 subject chosen by the Chairman and  
10 then to their dismay became the object  
11 of a severe dressing down by Mr.  
12 Legge."

13 I want to know what examples of this you have. Do you  
14 have anything that comes quickly to mind or occasions  
15 that come quickly to mind of circumstances that would  
16 in some way depict what you have said? Did you say it?

17 THE WITNESS: Yes, I did. I have been in  
18 that position myself, sir.

19 MR. DEANS: You were asked to report and  
20 then found that you were embarrassed by ---

21 THE WITNESS: Yes.

22 MR. DEANS: Were other members -- were other  
23 senior executive people put in a similar position when  
24 you were there?

25 THE WITNESS: Yes, sir.

26 MR. DEANS: Did they ever complain about  
27 it?

28 THE WITNESS: To whom?

29 MR. DEANS: To the Board, to Mr. MacDonald,  
30 to the Board ---



1 THE WITNESS: I have no idea about that,  
2 sir.

3 MR. DEANS: They didn't do it then you  
4 mean?

5 THE WITNESS: No, sir.

6 MR. DEANS: Was the full Board always  
7 there when these meetings were held?

8 THE WITNESS: No, sir.

9 MR. DEANS: Were they normally there?

10 THE WITNESS: Yes, I would say they were  
11 normally there, sir.

12 MR. DEANS: They then would have knowledge  
13 of what you are talking about when you were questioning  
14 them about it?

15 THE WITNESS: Yes.

16 MR. DEANS: That's what I wanted to find  
17 out, that they do something about what you are talking  
18 about.

19 Were you ever asked by the Board -- did  
20 the Board -- let me put this another way: Did the Board  
21 ever hold a meeting to discuss the general atmosphere  
22 of the Board, the atmosphere that prevailed among  
23 employees of the Board?

24 THE WITNESS: The Board held meetings --  
25 when I say "meetings" that may be one or two -- regarding  
26 the employee representation plan which has to do with  
27 the feelings of the Board because this is a kind of  
28 group of people who are representatives of various  
29 sections and who are elected by various sections. So  
30 that there would be discussions regarding what this group



1 of people were interested in in terms of bringing up the  
2 meetings that we held periodically with them, yes.

3 MR. DEANS: It did. Were there ever changes  
4 brought about as a result of the suggestions that were  
5 made?

6 THE WITNESS: Yes, there were. I can't  
7 think of any major ones. I think there were one or two --  
8 one in the benefits area perhaps.

9 MR. DEANS: But no changes in terms of the  
10 general atmosphere of the Board?

11 THE WITNESS: Not that I can recall, sir.

12 MR. DEANS: That you can recall.

13 Mr. Dowding, you attribute a statement to  
14 Mr. Decker in which you say, "Mr. Decker later told me  
15 personally that he was very disturbed  
16 with the atmosphere and tension that  
17 existed among the executives ..."

18 When was this conversation?

19 THE WITNESS: After Mr. Decker joining us,  
20 sir.

21 MR. DEANS: Did Mr. Decker to your knowledge  
22 ever raise those matters at these meetings that were  
23 held?

24 THE WITNESS: Not in front of me, sir, no.

25 MR. DEANS: Not when you were present?

26 THE WITNESS: No.

27 MR. DEANS: Did Mr. Decker ever discuss  
28 it subsequent to this meeting?

29 THE WITNESS: Discuss what, sir?

30 MR. DEANS: This feeling about the Board





1 and the atmosphere and the tension after this particular  
2 meeting, did he ever discuss it again with you?

3 THE WITNESS: He felt that there was the  
4 possibility of changes, yes.

5 MR. DEANS: Did he ask to make any  
6 suggestions as to how the changes may be brought about  
7 since you were the personnel director?

8 THE WITNESS: Only in very general terms.

9 MR. DEANS: That is all for the moment.

10 THE CHAIRMAN: Mr. Miller?

11 MR. MILLER: I only have a couple of  
12 questions, Mr. Chairman.

13 Were there a lot of people from the  
14 Services employed by the Workmen's Compensation Board  
15 prior to Mr. Legge going to the Board from the Armed  
16 Forces?

17 THE WITNESS: I really have no concrete  
18 knowledge in terms of figures about that.

19 MR. MILLER: Well, I am trying to relate  
20 the employment of these people and the unification of  
21 the Armed Services that occurred at about that time as  
22 I recall. I am wondering if suddenly there were a  
23 number of fairly capable people on the market?

24 THE WITNESS: There could have been, sir.

25 MR. MILLER: I just wondered if that was  
26 one of the explanations possibly for having this kind of  
27 person. Were you generally suited or happy with the  
28 qualifications of the people from the military?

29 THE WITNESS: There were one or two that  
30 I would have hired, sir, yes.



1 MR. MILLER: Did you feel there was undue  
2 pressure put upon you to have people employed that didn't  
3 come to you in the normal procedures?

4 THE WITNESS: I recall getting angry on  
5 a number of occasions about that, yes.

6 MR. MILLER: Would you feel it was unlike  
7 any other companies that you had worked for?

8 THE WITNESS: With regard to the military?

9 MR. MILLER: No, not the military, no,  
10 the pressure,

11 THE WITNESS: Yes, I would.

12 MR. MILLER: Can you help us by telling us  
13 some of the other companies you worked for?

14 THE WITNESS: I worked for eleven years  
15 with the first AVRO Canada and I was with the engineering  
16 division and I was with the University of Waterloo and  
17 I was with Texas Instruments Incorporated in Briton and  
18 came back to Canada and was with Genesco of Canada  
19 which was an American organization which moved and then  
20 I went to the Board.

21 MR. MILLER: Did you have any similar  
22 reservations about any of those organizations?

23 THE WITNESS: Not in the same vein, sir,  
24 no.

25 MR. MILLER: You left voluntarily I under-  
26 stand. When you left did you receive a recommendation  
27 from the Workmen's Compensation Board?

28 THE WITNESS: Not written.

29 MR. MILLER: Can you give us any reasons  
30 for your leaving? Were they all on your side, in other



1 words?

2 THE WITNESS: This is a question which is  
3 difficult perhaps to comprehend because I was not happy;  
4 I had not consciously looked for another position, but  
5 when I was told of Mr. Betts arrival or his impending  
6 arrival it struck me that perhaps the best thing I could  
7 do would be start looking for another position. It  
8 became obvious as I got to know Mr. Betts and he and I  
9 got to know each other better, and I have great respect  
10 for him, that he was being very honest with me in terms  
11 of feeling that apparently the Chairman felt about me.  
12 Now at one point in time he suggested to me that because  
13 of the Brownell incident the Chairman had suggested to  
14 him that perhaps I should be released from employment.

15 MR. MILLER: But you didn't ever receive  
16 this first hand from the Chairman?

17 THE WITNESS: Not from Mr. Legge, sir, no.

18 MR. MILLER: Were there any direct  
19 incidents from the Chairman that made you feel you were  
20 not wanted?

21 THE WITNESS: Only that Mr. Legge cut off  
22 complete -- shall we say, communications with me at a  
23 very early date after Mr. Betts arrival.

24 MR. MILLER: Those are all my questions,  
25 Mr. Chairman.

26 THE CHAIRMAN: Have the Committee completed  
27 their questioning of this witness?

28 MR. DEANS: I just wanted to ask one other  
29 question. This morning Mr. Miller raised the matter of  
30 the cafeteria. I just wanted to clear this up. You



1 don't consider the operation of the Board to be similar  
2 to that of an operation in a high school, do you?

3 THE WITNESS: No, I don't. That puts the  
4 rest of the staff in the light of students and all of  
5 the managers in the light of teachers which I am afraid  
6 I can't buy.

7 MR. DEANS: Since Mr. Miller used the  
8 example, do you think that the example is in any way  
9 apropos of the Board operation?

10 THE WITNESS: No, I'm afraid I can't see  
11 the analogy.

12 MR. DEANS: It is not my question, but I  
13 want to be clear.

14 THE CHAIRMAN: Does any other counsel have  
15 questions?

16 MR. DONNELLY: Mr. Dowding, I have been  
17 instructed to inquire by Mr. Cauley's counsel, do you  
18 know any of the circumstances or reasons surrounding  
19 Mr. Cauley's resignation?  
20  
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1 THE WITNESS: All I know about that, sir,  
2 is that I knew -- as indeed did all of the other  
3 principal officers, that there did exist a state of  
4 tension between Mr. Cauley and Mr. Legge. Mr. MacDonald  
5 did inform me that he had been down to see Mr. Cauley  
6 on, I think it was a Saturday, and had obtained his  
7 resignation. That is all that I know about that  
8 particular incident.

9 MR. DONNELLY: Do you have any more  
10 precise recollection regarding the date, that Saturday  
11 you refer to, when Mr. MacDonald went and, as you say,  
12 he obtained or got the resignation?

13 THE WITNESS: I am sorry, Mr. Donnelly,  
14 I really don't.

15 MR. LAPKIN: Thank you, Mr. Chairman.

16 MR. CHAIRMAN: Thank you, Counsel.

17 Has the Committee completed their  
18 questioning of this witness?

19 You may step down.

20 MR. DONNELLY: There is one matter that  
21 I may bring up and I thought someone else may cover  
22 this, but apparently Mr. Singer made -- I am sorry,  
23 excuse me, Dr. Shulman referred in the House to what  
24 you -- on April 21st, to what you referred to as the  
25 Brownell incident.

26 THE WITNESS: Yes.

27 MR. DONNELLY: Can you give us any  
28 further information that is not covered by your affidavit,  
29 sir?

30 THE WITNESS: Regarding the Brownell



1 incident?

2 MR. DONNELLY: Yes, you used the  
3 expression Brownell incident.

4 THE WITNESS: Yes.

5 MR. DONNELLY: Is there any ---

6 THE WITNESS: Well, I understand from  
7 reading the paper that Dr. Shulman denied any direct  
8 friendship with Mr. Brownell and perhaps his children  
9 went to school with Mr. Brownell's children. I have  
10 knowledge of that because Mr. Brownell himself told me  
11 that there was a connection of that description. In  
12 view of that I found it rather difficult to understand  
13 just why Mr. Legge was so incensed at Mr. Brownell's  
14 transfer or promotion into the Rehabilitation department.

15 MR. DONNELLY: Can you give us any other  
16 facts to the incident other than contained in your  
17 affidavit, sir?

18 THE WITNESS: Mr. Brownell had been  
19 Chairman at the time of the Employee Representation  
20 Plan which I have told you was a body of people who  
21 were able to sit down with management personnel once  
22 or twice -- I was going to say once or twice a year  
23 but it's more frequent than that -- whenever there  
24 were any subjects to be discussed, and I think perhaps  
25 there was some feeling about that regarding Mr. Brownell  
26 or Mr. Legge's feeling about Mr. Brownell, but I don't  
27 know.

28 MR. DONNELLY: I am particularly interested  
29 in the reference to the fact that no promotion or  
30 advancement for friends of any certain persons. Is



1 | there anything further you can bring to the Committee in  
2 | that respect?

3 |                   THE WITNESS: No, I can't.

4 |                   MR. DONNELLY: Thank you.

5 |                   MR. DEANS: Let me ask you another  
6 | question in regard to this. I assumed this had been  
7 | covered in my absence this morning. I am sorry, I  
8 | would have asked it previously. You mention Mr.  
9 | MacDonald coming in and asking how Mr. Brownell got  
10 | the job.

11 |                   THE WITNESS: That's right.

12 |                   MR. DEANS: Was there anything different  
13 | in the way Mr. Brownell got the job?

14 |                   THE WITNESS: Absolutely nothing.

15 |                   MR. DEANS: I understood from the story  
16 | that the rehabilitation department chose him?

17 |                   THE WITNESS: That's very right.

18 |                   MR. DEANS: It had nothing to do with  
19 | you at all?

20 |                   THE WITNESS: I was the person who  
21 | screened all the applicants and wrote a note up on each  
22 | of them and passed it through to the rehabilitation  
23 | department.

24 |                   MR. DEANS: You wouldn't expect to screen  
25 | them as to their friends, would you?

26 |                   THE WITNESS: No.

27 |                   MR. DEANS: It wouldn't be one of the  
28 | questions asked, "Do you know Morton Shulman?"  
29 |

30 |                   THE WITNESS: Not by me, sir.



1 MR. DEANS: Not by you.

2 THE CHAIRMAN: You may step down.

3 Thank you for being with us today.

4 MR. DONNELLY: Mr. Tannian please?

5 THE CHAIRMAN: (Swears the witness),

6 J. A. TANNIAN, sworn:

7 EXAMINATION BY MR. DONNELLY:

8 Q. Mr. Tannian, did you wish to give  
9 your evidence in statement form or question and answer,  
10 sir?

11 A. Well, since I came here under  
12 compulsion and didn't ask to be invited and I was  
13 subpoenaed, I will answer in question form and under  
14 the strongest possible protest in view of the nature  
15 of the remarks of the Commission Counsel this morning  
16 which labelled me in advance by inference which is now  
17 a matter of public record.

18 MR. DEANS: Before we proceed, Mr.  
19 Tannian, I want to clear a matter up. I wasn't here  
20 this morning when Counsel made the statement. I want  
21 to clear up any misunderstanding in regard to any  
22 persons here who were former employees of the Board.  
23 There is no reason to believe that there is anything  
24 improper in any of the actions of any of the former  
25 employees of any kind, and you were asked to come here  
26 because we simply wanted to know what your knowledge of  
27 the Board was and in general terms -- if you were  
28 familiar with any of the incidents that were related  
29 in the press or other reports. And I personally feel  
30 that had I been here I don't believe I would have





1 subscribed to -- if not the words, the tone, and I want  
2 you to know that if you have anything to say here, sir,  
3 that it will be treated properly and without any fear  
4 of vindictiveness or any other problem that may arise.

5 THE WITNESS: I understand the nature ---

6 THE CHAIRMAN: Mr. Miller?

7 MR. MILLER: I wanted to say this  
8 morning, sir, that the Counsel mentioned this morning  
9 there were various categories of employees and I don't  
10 know that he specified you in any given category.

11 THE WITNESS: Well, I don't ---

12 MR. FERRIER: Well, Mr. Chairman, if I  
13 might say a word on that. I felt that those remarks  
14 rather were prejudicial against anybody that would come  
15 forward and give any evidence, that it kind of labelled  
16 them in a different category than other people, and I  
17 understand that at the beginning of these hearings  
18 that people were to be treated with some degree of  
19 respect no matter where they came from or what position  
20 they have, and I was rather disappointed that those  
21 statements were made in the way that they were. Because  
22 as I say, I felt that they were prejudicial and judged  
23 certain people without trial, and I think it is out of  
24 keeping with the whole tenor and the purpose of these  
25 hearings.

26 THE CHAIRMAN: Mr. Allan?

27 MR. ALLAN: Mr. Chairman, I guess we all  
28 think as we like. I didn't take it that the Counsel  
29 was referring to anyone who was coming to give evidence.  
30 I took it that he was referring to the matter of a person



1 being able to give evidence under protection and to say  
2 anything without cross examination, and not affording  
3 the person to whom the evidence was referred the privilege  
4 of defending himself afterwards, I didn't take it that  
5 this referred to anybody that was coming to give evidence  
6 today in particular.

7 THE CHAIRMAN: I think, Mr. Allan, that  
8 you reflect very truly the views of the majority of  
9 this Committee and I myself didn't read Counsel's  
10 remarks this morning this way. I interpreted it to mean  
11 that we had already heard much of this type of evidence  
12 and perhaps the Committee had heard enough and how much  
13 dirty linen etc. did you want to see before this thing  
14 was over. Surely we don't want to go on all summer  
15 listening to much that is very repetitious and the  
16 Committee had a very grave decision to make on whether  
17 to follow the procedure possibly outlined by Counsel  
18 or to do which we did today, and we feel it our duty  
19 not to suppress this hearing in any way. But there is  
20 a limit to what we want to hear. I think we will be  
21 very shortly in a position to terminate this type of  
22 procedure.

23 You may proceed.

24 MR. DEANS: Just one moment. There is  
25 one further point I would like to make, Mr. Chairman.  
26 I don't know the exact way in which the notes of the  
27 Counsel were relayed so I am not in a position to judge  
28 on them, but there are some words in them that are  
29 disturbing that I read over lunch. They refer to bigots,  
30 crackpots and I think they were ill chosen and probably



1 were not intended to reflect on the witnesses, but I do  
2 feel they were perhaps better not said at the hearing,  
3 and I would like, Mr. Tannian, if I may, to ask you, sir,  
4 simply to tell us what you intended to tell us prior  
5 to this morning, no more, no less, and allow us to judge.  
6 We, generally speaking, are reasonable and fair in the  
7 way in which we judge things.

8 THE CHAIRMAN: Proceed, Mr. Tannian.

9 MR. DONNELLY: Q. Do you want to give  
10 it in statement form, sir?

11 A. No, as I said, question  
12 and answer.

13 Q. Pardon me?

14 A. Question and answer.

15 Q. Your present occupation, sir?

16 A. I am a public relations consultant.

17 Q. You were with the Workmen's  
18 Compensation Board, were you?

19 A. Yes, I was.

20 Q. When did you start with them?

21 A. On March 17th, 1969.

22 Q. And the nature of your appointment  
23 was?

24 A. I was Director of Information  
25 Services which included such matters as general public  
26 relations, press relations, advertising, responsibility  
27 for the library, that sort of thing.

28 Q. And your employment there terminated,  
29 sir, when?

30 A. Effective the end of February, 1970



1 -- sorry, 1971.

2 Q. February of 1971. You mentioned  
3 briefly the nature of the work that fell to you as  
4 director of these information services. Do you wish  
5 to expand any further on that, sir?

6 A. Well, no. It was, as I say,  
7 what is generally labelled as public relations. This  
8 has to do with press relations, the release of any  
9 information about the Board and in publication form  
10 or by statement. There was a counselling role also  
11 or at least it was supposed to be, and then administration  
12 of the library.

13 Q. And what was your responsibility  
14 regarding the placement of advertising, sir?

15 A. As I understood it I was responsible  
16 for the placement of all advertising on behalf of the  
17 Board through advertising agencies.

18 Q. And did that particular aspect of  
19 your work lead to some difficulty or friction?

20 A. Yes, it led to a great deal, sir.  
21 It seemed that I was forever being interfered with in  
22 a way that somebody else was usurping my authority. As  
23 a matter of fact it was just such a series of occasions  
24 that led to my final leaving of the Board and on the week  
25 of November 23rd, 1970 I went to Mr. MacDonald, the  
26 Executive Manager, through whom items are placed on the  
27 agenda and I asked to have two agenda items -- as a  
28 matter of fact I wrote them out in the form that I  
29 normally presented for the agenda, and one had to do  
30 with three occasions of -- on which during my absences





1 from the Board that somebody else had given instruction  
2 through advertising agencies and countermanding my  
3 instructions, and in fact therefore countermanding  
4 Board orders that I had already been through Board  
5 orders assigned the responsibility for all dealings  
6 with the agencies. And another had to do with the  
7 fact that another principal officer had instructed the  
8 advertising agencies to place all of their production  
9 business with one firm rather than calling in tenders  
10 from three or more companies as had been the case prior  
11 to that.

12 Q. You spoke of some interference, sir,  
13 in that area that you considered to be your own  
14 responsibility. Was that consistently from any one  
15 source or was it from different sources?

16 A. Well it was consistently from one  
17 source. You see, we had a rather strange set up --  
18 it was rather strange to me -- I came to the Board with  
19 18 years experience in corporate and consulting public  
20 relations and I encountered a situation at the Board  
21 in which I had -- which you might call a responsibility  
22 without authority or authority without responsibility  
23 in that the advertising budget was actually on the  
24 budget as the Director of Safety Education -- that's  
25 where the funds came from.

26 Q. Who was that by name, sir?

27 A. Mr. William Draper.

28 Q. Mr. William Draper?

29 A. Yes.

30 Q. Yes?



1                   A.     And I had the responsibility of  
2     dealing with the agencies and so on but he had the  
3     accounting responsibility regarding the funds. He had  
4     a budget for safety education generally and almost all  
5     of the Board's advertising was in the form of safety  
6     education. It was designed to encourage safe performance  
7     on the job and to encourage management to help their  
8     employees to work safely, to introduce safe working  
9     conditions.

10                  Q.     And did this -- you spoke of the  
11     interference coming consistently from the one source.  
12     Was that as a result of this queer situation or whatever  
13     you call it, sir, that both you and Draper had dealings  
14     with the advertisers?



1 THE WITNESS: Yes. I will give you three  
2 occasions that I have made notes of here.

3 In February of 1970, I was asked to go out  
4 of the city for my mother's funeral and, again, in September  
5 when I was on vacation, representatives of the advertising  
6 agencies were called together by Mr. Smola -- Mr. Smola  
7 happened to be the Assistant Director of Safety Education  
8 on the Board and they were told -- they were given certain  
9 instructions, including being told that they were to  
10 provide all instructions to the agencies from that point  
11 on with regard to safety education.

12 Q. Where would this information come  
13 from or how would it come to your attention, sir?

14 A. It is a normal practice with adver-  
15 tising agencies to issue what they call "Contact Reports".  
16 Whenever a contact is made between them and the client,  
17 contact -- regardless of who the contact originates with,  
18 it is a matter of their keeping records so that they have  
19 on paper a record of their instructions. These "Contact  
20 Reports" are issued to the client and to people within  
21 their own organization such as their creative people,  
22 their account people, their accounting people and all that  
23 sort of thing and so that everybody really keeps track of  
24 what is going on and copies are issued to the client.

25 Q. And it would be in this form of  
26 documentation that this would come to your attention; is  
27 that right?

28 A. Yes.

29 Q. And you say that when you were away  
30 on this particular occasion, this meeting or something was



1 called and what happened then, sir?

2 A. Well, in the case of February, the  
3 agencies were called together by Mr. Smola and told that  
4 they would be given -- would receive in future all  
5 instructions regarding advertising -- safety advertising  
6 from him, that was by far the great majority.

7 Q. The point I wanted you to clear up  
8 for the Committee was how did you know what Mr. Smola had  
9 told them?

10 A. That is in the contact report. I  
11 don't have copies of the contact report with me but I am  
12 sure the Board would have to have them on record.

13 Q. It should be on the Board record,  
14 should it?

15 A. And also at the advertising agencies,  
16 three different advertising agencies.

17 Q. Go ahead, sir.

18 A. And a similar situation occurred, as  
19 I stated, November 17, 1970, and during September of 1970.

20 Q. And by similar situation, sir, what  
21 was that?

22 A. The agencies were contacted and given  
23 instructions countermanding my instruction or, as I say,  
24 in two instances, they were told that they would receive  
25 all their instructions from ---

26 Q. All their instructions from?

27 A. From Mr. Smola.

28 Q. As opposed to formerly being received  
29 from you?

30 A. Yes.





1 MR. DEANS: How do you spell that?

2 MR. DONNELLY: S-M-O-L-A, Smola.

3 Q. Is there any other point you would like  
4 to make?

5 A. Well I believe the November one had to  
6 do with the agencies were instructed by Mr. Smola to make  
7 changes in the advertising format -- for example, we were  
8 advertising at that time in various ethnic language news-  
9 papers, Italian, Ukrainian and so on, to reach that type of  
10 worker and, for some reason, although there existed desig-  
11 nations for the Board in those languages, the agencies were  
12 instructed to change that portion of the advertisements to  
13 English and, also, they were instructed to change the manner  
14 in which advertising was apportioned and, for instance,  
15 television stations. As I recall, two television stations  
16 were dropped, one at Wingham and one at Windsor.

17 Q. And were these -- did this change or  
18 this interference, ~~that you~~ speak of, did that have some  
19 affect on your ability to carry on your work, sir?

20 A. Well, in this regard, I had an ongoing  
21 continuing relationship with the agencies and on only three  
22 occasions which I was absent from the Board, and on each of  
23 those three occasions the same sort of thing occurred, and  
24 so I would come back and find in effect a new ball game.

25 Q. And what would you do about it, sir?

26 A. Well, as I say, I protested to  
27 Mr. Draper and I protested to Mr. MacDonald, and finally,  
28 on the -- following the third occasion, November 17th  
29 occasion; the following week, the week of November 23rd,  
30 I wrote to -- an agenda memorandum which I asked to have



1 presented to the three-man Board. I said that I would like  
2 to have it sorted out just who had responsibility for the  
3 advertising agencies and also wanted to protest particularly  
4 against the fact that -- despite the fact that the normal  
5 format for the ordering of all advertising matter was to  
6 -- production matter, I am talking about now, such as plates,  
7 commercials, that sort of thing, a printing matter -- three  
8 tenders were invited, I believe on instructions to place  
9 all that type of order with one firm and one firm only.

10 Q. And you made this request that these  
11 matters go on the agenda, did you?

12 A. I did.

13 Q. What happened then, sir?

14 A. Mr. MacDonald told me that that wasn't  
15 necessary, that these matters could be settled through  
16 discussion. Three days later -- well, the following  
17 Saturday, I was called up to Mr. MacDonald's office and  
18 present were Mr. MacDonald and Mr. Thompson, the Director  
19 of Finance and Mr. Draper, and after we had reached a  
20 discussion where I had been told I had been giving unauthor-  
21 ized instruction to give to advertising agencies, I was  
22 told I was suspended without pay.

23 Q. When was this, sir?

24 A. That was November 29th, 1970.

25 Q. I'm sorry, I didn't hear you, you were  
26 -- it was said you were doing what?

27 A. I was told that I was giving anauthor-  
28 ized instructions to the advertising agencies.

29 Q. Was any particular of that given to  
30 you or was it just a general statement?



1                   A.     It was rather general in nature and I  
2 wrote a letter to Mr. MacDonald that day with copies to  
3 all three Board members and might I read that letter to  
4 the Committee and enter it as evidence?

5                   Q.     Please.

6                   A.     As I said, I wrote it on November 29th,  
7 1970, and I addressed it to Mr. MacDonald; I addressed a  
8 copy to Mr. Legge, Mr. Decker and Mr. Hamilton. The letter  
9 has not yet been replied to by any of them. The letter  
10 reads -- I hand delivered all copies to the Board:

11                   "Dear Mr. MacDonald:

12                   This will confirm our conversation of  
13 today in which you informed me that  
14 I am suspended without pay from the  
15 Workmen's Compensation Board, Ontario,  
16 effective tomorrow, November 30, 1970.

17                   As you know, you gave me no details  
18 about the reasons behind the suspension  
19 although I am aware of the general  
20 nature of the charges against me. As  
21 they revolve around my giving unauthor-  
22 ized instructions to advertising  
23 agencies, I would request that I be  
24 provided with details of the charges.  
25                   As you know, I <sup>have</sup> / complained on several  
26 occasions about other personnel of  
27 the Workmen's Compensation Board giving  
28 unauthorized instructions to advertising  
29 agencies and production houses and I  
30 wish to ascertain among other things



1 why only I was suspended and if the  
2 accusations against me include acts  
3 committed by others.

4 Because of the serious nature of the  
5 accusations made against me, I hereby  
6 request that I be permitted to discuss  
7 them in front of the full Board. I  
8 further request that such an arrange-  
9 ment be made at the earliest possible  
10 date and that I also be informed at the  
11 earliest possible date of the Board's  
12 decision regarding my future employ-  
13 ment. If necessary, I would also be  
14 happy to appear with the Board members  
15 and other interested parties before the  
16 Legislative Committee on Boards and  
17 Commissions.

18 Pending hearing further from you, may  
19 I express how deeply I regret this  
20 situation. I have always acted in good  
21 faith with loyalties only to the Board.  
22 In all my dealings with advertising  
23 agencies and others my sole motive has  
24 been to carry out the responsibilities  
25 which I was led to believe were mine  
26 when I joined the Board.

27 There are certain public relations  
28 and advertising activities that must  
29 be carried out in the immediate future.  
30 Some of these are discussed in the





1 material which I am sending you under  
2 separate cover. I will send other  
3 notes, covering other things which  
4 must be done in the immediate future,  
5 within the next few days."

6 I put a postscript to this and this was sort of an educated  
7 piece of speculation. I said, "As the tape recording made  
8 of today's meeting in your office is  
9 the only record of that meeting, may  
10 I be provided with an unedited and  
11 unabridged copy of the tape?"

12 Now in that P.S., I was presuming because I had seen it  
13 happen so often that there was a concealed tape recorder  
14 -- I later learned that that in fact had been the case.

15 EXHIBIT NO. 70: Copy of letter from J. A. Tannian to  
16 Mr. A. G. MacDonald, dated November 29th,  
1970.

17 Q. Sir, were you in fact then suspended  
18 without pay?

19 A. Yes, sir.

20 Q. Would you file a copy of that letter?

21 A. Yes.

22 Q. What next happened after that?

23 A. Well then I was called to a meeting,  
24 and I don't remember the exact date of this, with  
25 Mr. MacDonald at the two meetings, and I don't remember  
26 which came first but one at the Board of Trade Country  
27 Club and the other at the restaurant in the Seaway Hotel,  
28 I think it is.

29 Q. Sir, you don't recall the date but  
30 did it follow shortly in point of time?



1 A. Yes, sir.

2 Yes, I recall now that the first one was  
3 somewhere in the middle of the following week and the second  
4 one was on a Saturday and I think December 4th, around  
5 about that time.

6 Q. Yes?

7 A. And after some discussion, I was told  
8 by Mr. MacDonald that one of the Board members was willing  
9 to allow me to appear before the Board but Mr. Legge and  
10 the other felt otherwise so that the matter never was  
11 clarified. However, I was restored to the payroll and I  
12 received full salary and benefits from then on up until  
13 my resignation became effective. I submitted my resignation  
14 on December 9th.

15 MR. DEANS: Mr. Counsel, who told him that?

16 Who told the Board members, one being  
17 prepared to hear you and the other two not?

18 THE WITNESS: Mr. MacDonald.

19 MR. DONNELLY: Q. And one of these two  
20 meetings that you speak of, you think about early December,  
21 sir?

22 A. Both early December.

23 Q. That it was at one of these two  
24 meetings when you were told that?

25 A. Yes.

26 Q. Do you recall the substance of the  
27 other meeting or the purpose of it?

28 A. Well, it was basically that they,  
29 the Board members, Mr. MacDonald and so on, were unhappy  
30 with the way I administered my job and that I had given



1 unauthorized instructions to advertising agencies; that it  
2 would not be useful for me to attempt to continue functioning  
3 in the role as director of information services.

4 Q. Did you retain that position so long  
5 as you remained at the Board?

6 A. Well, I never returned to the Board.  
7 I submitted my resignation December 9th, effective the end  
8 of February but I never returned to continue to work there.

9 Q. And your resignation was given  
10 voluntarily, sir, or was it as a result ---

11 A. Yes.

12 Q. Not as the result of a request?

13 A. It was requested, yes -- it was agreed  
14 to, let's put it that way.

15 Q. By that you mean you also apparently  
16 agreed that you should resign; is that what you are saying?

17 A. Yes, it was useless to attempt to  
18 continue. I couldn't appear before the Board to present  
19 the agenda items or make requests and it was the only way  
20 you could get anything done at the Board was to appear  
21 before -- on an agenda committee and it would be impossible  
22 to function.

23 Q. You referred in your evidence to the  
24 criticism levied against you that you had made unauthorized  
25 commitments with advertisers; is that correct?

26 A. Yes, I had several other people.

27 Q. Could you give us some idea of the  
28 nature or the extent of the unauthorized commitments you  
29 made, sir?

30 A. Yes, I ordered the production of



1 television commercials and I agreed with advertising  
2 agencies as to the placement of advertising matter.

3 Q. Was that on one occasion or more?

4 A. On at least two occasions.

5 Q. And what was the nature of the  
6 authority that you were lacking in order to do that?

7 A. Well, the normal procedure is to  
8 appear before the Board with specifics, as to your program  
9 that you wish to use and costs, just as any purchase on  
10 behalf of the Board is normally made.

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1 Q. You are saying to the Committee on  
2 two occasions you didn't follow that formality in giving  
3 specifics to the Board?

4 A. That's right.

5 Q. Are there any other questions on un-  
6 authorized activity, sir?

7 A. Not that I recall.

8 Q. Do you say that the P.S. in your  
9 letter, you refer to a copy of the taped transcription  
10 and you say that that happened so often before. Could  
11 you tell us what you mean by that, sir?

12 A. Well, I frequently saw tape recording  
13 devices being concealed behind drapes or actually attached  
14 to telephones.

15 Q. Do you recall in which offices this  
16 was seen?

17 A. I saw it in Mr. Draper's office on  
18 several occasions and also in the public relations  
19 offices.

20 Q. And whose office would that be in at  
21 the time?

22 A. The public relations offices is a  
23 general area which includes the library, but specifically  
24 I saw a recording device being attached to a telephone  
25 that was used both by Mr. Pendrith on my staff then and  
26 Mr. Draper, the Director of Safety Education and I saw  
27 the recording devices being placed and used by Mr.  
28 Draper in his own office and being placed behind drapes  
29 in his own office.

30 Q. Can you be specific, sir, as to your



1 own experience with regard to the taping of telephone  
2 conversations or interviews?

3 A. With regard to my own experience?

4 Q. With regard to what you saw or took  
5 in or whatever it may be.

6 A. I wasn't involved in the actual  
7 recordings myself, but the only one I recall hearing  
8 played back to me that I can specify -- although I know  
9 there were others that were played back -- and that is the  
10 one referred to here in Mr. MacDonald's testimony the  
11 other day, the conversation between Mr. MacDonald and  
12 Mr. Hicks. I do recall hearing others played back.

13 Q. You recall others in general terms,  
14 but you can't tell specifically what they are; is that  
15 what you're saying?

16 A. Yes.

17 Q. Can you give us any idea as to the  
18 frequency of that, sir?

19 A. It's hard to express, but I would  
20 say a score of times.

21 Q. You are speaking of 20 or less?

22 A. Yes, in the course of two years.

23 Q. Does this deal with telephone  
24 conversations or with interviews, sir?

25 A. Both.

26 Q. And you say you weren't involved  
27 yourself in the tapings?

28 A. That's right.

29 Q. And as far as the persons who were  
30 involved in these telephone tapings, that you did have



1 information about -- I shouldn't say have information  
2 about, that you saw yourself, can you tell us who they  
3 were?

4 A. You mean who the other parties to  
5 the conversation were?

6 Q. The party to the Board, do you know?

7 A. It was almost invariably Mr. Draper.

8 Q. Was it ever anyone else?

9 A. Not that I can recall, no.

10 Q. And you speak of asking for a tape  
11 of your own interview and who was present at that time,  
12 sir?

13 A. Mr. -- during that meeting it was  
14 Mr. MacDonald, Mr. Draper, Mr. Thompson.

15 Q. Was there a tape recorder in evidence  
16 at the time?

17 A. No.

18 Q. Did you realize it was being recorded?

19 A. I took an educated guess because I  
20 knew this was a normal procedure and I found that there  
21 was such a tape.

22 Q. I take it you didn't request any  
23 recording at the time or in advance or anything of that  
24 nature?

25 A. No, I would have been quite happy  
26 to have a recording as a matter of fact if they wanted  
27 to put one out on the table.

28 Q. Do you mean in advance of the incident  
29 you would have?

30 A. Certainly, or any other event.



1 Q. And did you ever subsequently hear  
2 the recording, sir?

3 A. No, I did not.

4 Q. How did it come to your attention  
5 that there was one?

6 A. Well, Mr. Dowding told me that he  
7 had the tape.

8 Q. That's the last witness?

9 A. That's right.

10 Q. Is there anything else you wanted  
11 to bring before the Board, sir, or the Committee?

12 A. Nothing especially I wanted to  
13 volunteer. I would certainly answer any questions.

14 MR. DONNELLY: It may be that members of  
15 the Committee have some questions.

16 THE CHAIRMAN: Mr. Deans?

17 MR. DEANS: Thank you. I might as well  
18 start where you left off and work our way back into  
19 what you have raised.

20 You are probably aware, sir, that there  
21 have been a number of times that the matter of tape  
22 recorded messages has been raised by members of the  
23 Committee and previous witnesses. Mr. MacDonald as I  
24 recall denied any practice of tape recorded messages  
25 other than on one occasion when the tape recorder was  
26 sat in the open on the desk and one other incident and  
27 that incident being the one you referred to with Mr.  
28 Hicks. Do you have any knowledge that Mr. MacDonald  
29 would have known of tape recorded messages?

30 THE WITNESS: I can't say that I have





1 direct knowledge, but it would surprise me if there  
2 wasn't anything else.

3 MR. DEANS: Did you ever tell Mr. MacDonald  
4 of the tape recorded messages that you were aware of,  
5 the tape recordings that you were aware of?

6 THE WITNESS: No, sir.

7 MR. DEANS: Did you ever tell anyone?

8 THE WITNESS: No, sir.

9 MR. DEANS: Why not?

10 THE WITNESS: It became such a routine --  
11 when I first saw it I was rather shocked because, you  
12 know, being in the telephone business for 11 years I  
13 was aware of the legislation and then it became such  
14 an every-day routine that it ceased to shock me.

15 MR. DEANS: It just became that you  
16 accepted it as part of the every-day operations of the  
17 Board?

18 THE WITNESS: That's right.

19 MR. DEANS: I want to go back through the  
20 incidents leading up to the resignation of the Board.

21 Did you have difficulty previous to this  
22 occasion having matters for the agenda placed on the  
23 agenda?

24 THE WITNESS: Oh, yes. You see, for about  
25 50% of the time that I was at the Board there was in  
26 fact as well as in effect a one man Board pretty well  
27 and that Mr. Cauley, who was a permanent appointee, left  
28 the Board about a month after I arrived and then for  
29 the next year there were pro tempore people. There was  
30 a pro tempore vice-chairman and then there were two other



1 gentlemen served as pro tempore commissioners. So that  
2 for one thing the agenda makings were very, very regular,  
3 I believe because the Chairman was absent, and also  
4 because -- well, that is the irregular nature of it, but  
5 also there was the practice and the custom that nothing  
6 appeared before an agenda meeting without prior approval  
7 of Mr. MacDonald, and I understand that approval came  
8 to him from Mr. Legge. As a matter of fact most of the  
9 items I did succeed in getting in the agenda item were  
10 in fact initiated by Mr. MacDonald or Mr. Legge.

11 MR. DEANS: In other words, they requested  
12 you to do something and you then placed it on the agenda  
13 to have it discussed?

14 THE WITNESS: That's right.

15 MR. DEANS: The whole matter of your  
16 suspension strikes me as odd to say the least. Would it  
17 be considered normal procedure for a person who had been  
18 suspended to have the right to appeal to the Board?

19 THE WITNESS: I would think that any matter  
20 as serious as that would have certainly been a matter for  
21 discussion before the Board what was justified with  
22 humanity.

23 MR. DEANS: Did you ever discuss it with  
24 any Board members?

25 THE WITNESS: No, I never saw any Board  
26 members again until I met them in the hall again last  
27 week.

28 MR. DEANS: You never have considered  
29 marching into one of the offices and saying, "What the  
30 hell is going on around here?"



1 THE WITNESS: I did consider that and I  
2 even considered it, as the alternative, I suggested my  
3 letter approaching the Legislative Committee. But the  
4 relationships between the Board members were such that  
5 it would be pointless to go to anybody other than the  
6 Chairman and I was sure that Mr. MacDonald wasn't acting  
7 on his own initiative in rejecting my request to appear  
8 on an agenda item so I didn't feel that it would be  
9 worthwhile to go to either Mr. Decker or Mr. Hamilton.

10 MR. DEANS: Now you said the relationship  
11 between the Board members was such and what do you mean  
12 by that?

13 THE WITNESS: Well, relationships were a  
14 matter of an open and continuing conflict.

15 MR. DEANS: Do you have any first hand  
16 knowledge of that?

17 THE WITNESS: Well, yes. Well, one agenda  
18 meeting at which I was present and which I was presenting  
19 on instruction, recommendations for advertising agencies  
20 and it was the first agenda meeting ever attended by Mr.  
21 Decker and I believe there were only Mr. Legge and Mr.  
22 Decker present that day and Mr. Legge turned on me for  
23 some reason or other -- even though I was presenting what  
24 I had been told to present, turned on me and he was -- I  
25 was going to say abrasive, but he was -- he made a very  
26 vicious attack on me and such an attack that Mr. Decker  
27 looked visibly shocked and in fact tried to intercede and  
28 Mr. Legge turned and in fact told him to mind his own  
29 business. Mr. Legge's protest at the time was that I  
30 hadn't for some reason or other cleared the proposed



1 assignments to the advertising agencies with what he  
2 called his "control agency", Foster Advertising Limited.

3 MR. DEANS: Would you mind explaining to  
4 me what this "control agency" is? I am not absolutely  
5 clear.

6 THE WITNESS: I wish somebody would explain  
7 it to me. I have been in this business for 20 years now  
8 and I have never heard it before or since.

9 MR. DEANS: What was intended by it? You  
10 must have been told what was intended by it?

11 THE WITNESS: As I understood, he felt that  
12 Foster Advertising which was one of the three agencies  
13 who had been selected to do work for the Board should have  
14 the authority to screen what all advertising agencies  
15 received in the way of assignments.

16 MR. DEANS: Did that mean that they were  
17 going to be paid for making sure that the advertising was  
18 up to their standard?

19 THE WITNESS: Possibly that might have been  
20 the implication, but I felt that it was giving them an  
21 element of control that was unwarranted. Maybe I should  
22 go back and tell you how the advertising agencies were  
23 selected.

24 MR. DEANS: I would appreciate that.

25 THE WITNESS: There were nine agencies  
26 submitted bids. Some of them were by invitation and some  
27 requested to make bids, that is, make presentations of the  
28 type of program that they would present on behalf of the  
29 Board. Through a screening process it was narrowed down  
30 to the selection of three agencies, one of them being





1 Foster Advertising Limited and the recommendation was  
2 that the work would be equally divided among the three.  
3 However, at a meeting in the boardroom in October  
4 of 1970 Mr. MacDonald told Mr. Draper and I with the  
5 two Board members present -- this was out of earshot of  
6 the Foster people -- that it was the Chairman's wish that  
7 Foster Advertising receive 50% of the Board's work, and  
8 I suppose it was related to that -- I know that Mr.  
9 Foster had had a private meeting with Mr. Legge in Mr.  
10 Legge's office.

11 MR. DEANS: This matter was never questioned?

12 THE WITNESS: Pardon?

13 MR. DEANS: You never questioned this at  
14 any time?

15 THE WITNESS: Not ---

16 MR. DEANS: The 50%? Did you then follow  
17 that procedure and delegate 50%?

18 THE WITNESS: No. What happened was Foster  
19 kept coming up with presentations which were unacceptable  
20 in quality and there work never -- pardon me, did come up  
21 to the standards. Most of the -- almost all the ad-  
22 vertising we did do was by the two other agencies and  
23 then Foster's were placed in the role whereby they were  
24 the placement agency and were accorded what was later to  
25 become to be known as the agency of record which is a  
26 normal term.

27 MR. DEANS: Agency of record?

28 THE WITNESS: Yes, this indication to the  
29 media the agency through which they should deal.

30 MR. DEANS: So although they actually never



1 did the work they became the people through whom the  
2 media had to operate in order to get a Board assignment?

3 THE WITNESS: That is up until the time  
4 I left the Board, that is the way it was.

5 MR. DEANS: Did you bring it to their  
6 attention that the Foster work -- at least in your  
7 opinion, I don't know whether in anyone else's, but in  
8 your opinion not of sufficient quality?

9 THE WITNESS: Mr. MacDonald, Mr. Draper  
10 and I all had -- we all found them unsatisfactory.

11 MR. DEANS: Why then would the Board  
12 continue to use them rather than to discontinue their  
13 operation?

14 THE WITNESS: That was the Board's decision,  
15 not mine.

16 MR. DEANS: I see, that was a Board decision.  
17 Was it a decision made by the Board to your knowledge  
18 by way of record of the Board?

19 THE WITNESS: I have no knowledge of such  
20 a record.

21 MR. DEANS: You have no knowledge of such  
22 a record?

23 THE WITNESS: Other than as I say, it was  
24 the Board order that those three agencies including  
25 Foster were to do the Board's work.

26 MR. DEANS: Let me come back to that, but  
27 the letter that you wrote regarding the meeting that you  
28 had on the Saturday following -- whatever day it was,  
29 I can't recall -- with Mr. MacDonald, Mr. Thompson and  
30 Mr. Draper, I believe it was December 23rd, I believe,



1 you mentioned you wrote a letter with carbon copies to  
2 each Board member and you say you have not yet received  
3 an answer and you haven't received an answer from any  
4 single person?

5 THE WITNESS: I received no contact from  
6 any member of the Board.

7 MR. DEANS: You stated that Mr. MacDonald  
8 informed you that Mr. Legge and one other member of the  
9 Board was not prepared to meet with you?

10 THE WITNESS: That's right.

11 MR. DEANS: Who was the other member?

12 THE WITNESS: Mr. Hamilton.  
13 was

14 MR. DEANS: He/ not prepared to meet with  
15 you?

16 THE WITNESS: That's what Mr. MacDonald  
17 informed me.  
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1 MR. DEANS: But Mr. Decker was?

2 THE WITNESS: Yes.

3 MR. DEANS: Did Mr. MacDonald upon re-  
4 instating you, did he inform you that all of the matters  
5 had been cleared up?

6 THE WITNESS: He certainly implied that.  
7 The matters were not specifically identified.

8 MR. DEANS: With the appropriate apologies  
9 I am sure?

10 THE WITNESS: Yes. He apologized for  
11 having put me through all the strain -- as he said,  
12 "I know you have a mortgage to meet," and all that.

13 MR. DEANS: So kind. There might have  
14 been consideration prior to this.

15 The matters of your absences -- you were  
16 in other places you say and have a somewhat varied  
17 background in the field?

18 THE WITNESS: That's right.

19 MR. DEANS: Have you ever run across  
20 situations where upon leaving for a moment or two you  
21 discover that the whole operation has changed?

22 THE WITNESS: Never, sir.

23 MR. DEANS: Did you raise this other  
24 than with Mr. MacDonald?

25 THE WITNESS: No. Well, only with Mr.  
26 Draper.

27 MR. DEANS: Am I correct by the way --  
28 let me ask you, am I correct in assuming that Mr. Draper  
29 was on equal footing with you?

30 THE WITNESS: That's right, he was a fellow





1 principal officer.

2 MR. DEANS: So that Mr. MacDonald was  
3 the immediate superior to both of you?

4 THE WITNESS: Yes.

5 MR. DEANS: In Board terms?

6 THE WITNESS: He had -- this was again  
7 rather unusual from normal business practice relation-  
8 ships and sometimes we dealt through him and other  
9 times direct with Board members. In other words, it  
10 wasn't directly in line with him. You know, it wasn't  
11 invariably that kind of a thing.

12 MR. DEANS: When you went to Mr. MacDonald  
13 and said that these things had occurred, can you recall --  
14 and I am talking about now the issue in 1970 and September  
15 of 1970 and again in November of 1970, I assume you  
16 went on each occasion; is that fair?

17 THE WITNESS: Yes, but the time -- I didn't  
18 make a real serious protest until the November occasion  
19 because I understood that Mr. MacDonald actually had  
20 knowledge -- at least to some extent -- <sup>about</sup> what Mr.  
21 Draper was doing.

22 MR. DEANS: I see. But you did bring it  
23 to Mr. MacDonald's attention on each occasion, did you?

24 THE WITNESS: Yes.

25 MR. DEANS: Can you recall ---

26 THE WITNESS: As I say, on every occasion  
27 it wasn't necessary; he had knowledge of it.

28 MR. DEANS: He already knew?

29 THE WITNESS: Yes.

30 MR. DEANS: How did he know?



1 THE WITNESS: He knew of his dealings  
2 through Mr. Draper.

3 MR. DEANS: I see. And did he look into  
4 the matter further to determine the propriety of the  
5 action?

6 THE WITNESS: Not to my knowledge. Again,  
7 like the practice of tape recording it was such an  
8 irregular, and, to me from my business background, it  
9 was such -- things were done in such an irregular and  
10 unusual manner that they didn't seem to surprise or  
11 shock anybody, so no matter how unbusinesslike it might  
12 seem this didn't seem to bother anybody else.

13 MR. DEANS: Now was I correct -- did I  
14 hear you correctly when you said that the advertising  
15 budget came under Mr. Draper's department prior to  
16 your appointment?

17 THE WITNESS: Yes. You see, prior to  
18 my appointment all the safety advertising was handled  
19 by the Safety Association such as the Industrial  
20 Accident Prevention Association, Construction Safety  
21 Association, that sort of thing, and one of the functions  
22 when I was brought to the Board -- there was an element  
23 I guess of competition, an overlapping in this, and  
24 one of the whole concepts of the setting up of my job  
25 was since these were in fact Board funds that were  
26 being spent in this way, they should be spent in that  
27 manner, and if we could work with general accident  
28 prevention in the province with one program. Now the  
29 safety associations were funded out of Mr. Draper's  
30 budget and I presume they still are, and this of course



1 included the advertising which was one part of the  
2 safety education program. So even when the Board  
3 established my position and brought me into direct  
4 advertising they continued to leave the operation of  
5 these funds under the jurisdiction of the safety  
6 education budget.

7 MR. DEANS: So what happened then was you  
8 set up the program but the funding of the program came  
9 from those other areas?

10 THE WITNESS: The funding came from Mr.  
11 Draper's budget, safety education budget, yes.

12 MR. DEANS: He couldn't have misunderstood  
13 his function?

14 THE WITNESS: He shouldn't have been able  
15 to. There was, as I say, a Board order and this should  
16 be available by subpoena. He made me responsible for  
17 the placement of the advertising.

18 MR. DEANS: Do you know whether Mr.  
19 Draper was ever chastised, suspended, for overstepping  
20 his responsibility?

21 THE WITNESS: I would doubt it very much,  
22 but I don't know of any.

23 MR. DEANS: You don't know one way or the  
24 other?

25 THE WITNESS: No.

26 MR. DEANS: The other matter that I want  
27 to discuss with you is a more general matter for a moment.  
28 You overheard the conversation that I had with Mr.  
29 Dowding in regard to the general atmosphere of the  
30 Board and he informed us, as he did in the newspaper, that



1 | there was a tacit agreement that between executives that  
2 | nothing of real importance should be or could be  
3 | discussed, and I assume you came under the category of  
4 | an executive?

5 | THE WITNESS: Principal officer.

6 | MR. DEANS: You would be in that category  
7 | we are talking about?

8 | THE WITNESS: Yes, sir.

9 | MR. DEANS: Were you familiar in any way  
10 | with such an agreement?

11 | THE WITNESS: Well, yes, an unwritten one.  
12 | There was as much I suppose of a scalp protection  
13 | arrangement as anything else, whereas having attended  
14 | similar meetings as members of the Executive Committee  
15 | of the corporation I was used to a situation in which  
16 | you would use that type of forum to let all members of  
17 | the executive know about what you were up to so that  
18 | there could be contributions and discussion and advice  
19 | and information. Here at the principal officers  
20 | meetings it became the practice that you were to discuss  
21 | nothing more than housekeeping matters.

22 | MR. DEANS: Let me ask you, sir, from  
23 | 1970 until 1971 when you left the Board did you notice  
24 | any change in the attitude at the Board at all in regard  
25 | to encouraging a more free discussion of views?

26 | THE WITNESS: Not during that period.  
27 | When Mr. Decker and Mr. Hamilton had joined the Board  
28 | they made some attempts, it seemed to me, that Mr.  
29 | Decker came on -- and he was very sympathetic and he  
30 | spoke to me and expressed concern about the morale





1 at the Board and wondered if I had any suggestions as  
2 to things which might be done about it, and I had  
3 meetings with Mr. Hamilton too which went along on a  
4 business basis, but from an overall basis I would say  
5 not in that period.

6 MR. DEANS: You, I take it, were the  
7 subject of one of the dressing downs referred to by  
8 Mr. Dowding in the Globe and Mail article of April 21st,  
9 and I tend to think that you might have been one of  
10 the people who were subjected to this?

11 THE WITNESS: At a principal officers  
12 meeting? Yes, as a matter of fact I think at one  
13 occasion or another I heard each of his dressing downs.

14 MR. DEANS: I see. It was one of those  
15 things, "Your turn is next."

16 THE WITNESS: Yes.

17 MR. DEANS: Have you ever experienced  
18 that kind of an atmosphere outside prior to your work  
19 with the Board?

20 THE WITNESS: No, not in the work  
21 environment, no.

22 MR. DEANS: Everyone who comes before us  
23 has been asked what they think of Mr. Legge's adminis-  
24 trative ability. It seems only fair that you should  
25 be asked the same question.

26 THE WITNESS: Well, my opinion of his  
27 administrative ability was not the same as what I have  
28 heard others testify. I felt that there was some -- I  
29 don't know if it was administrative ability, but I would  
30 question his priorities.



1 MR. DEANS: Did you feel he was sensitive  
2 to the concerns and the needs of the employees of the  
3 Board?

4 THE WITNESS: No, I thought he was quite  
5 insensitive.

6 MR. DEANS: Do you have any reason to  
7 say that?

8 THE WITNESS: No, he just didn't seem to  
9 me to be that type of human being.

10 MR. DEANS: He didn't actually do anything  
11 that would indicate that other than a feeling?

12 THE WITNESS: That's right.

13 MR. DEANS: The matter of cross examination  
14 I was kind of interested in, and I just can't see the  
15 point. Yes, Mr. Dowding is quoted as having said in the  
16 same article on the same day on the same page,

17 "Mr. Legge continually criticized the  
18 kind of people ..."

19 I am sorry, I am on the wrong matter.

20 "It appeared that his whole motive was  
21 to be feared. He had no patience with  
22 people who held views on any matter that  
23 did not coincide with his."

24 Do you have any direct knowledge of anything that would  
25 substantiate or rebuke that statement?

26 THE WITNESS: I wasn't present at the  
27 type of session where they interviewed new employees  
28 Mr. Dowding is talking about in that particular situation,  
29 but this is the feeling I had in regard to opinions  
30 expressed at the principal officers meetings and at the  
agenda meetings?



1 MR. DEANS: The whole matter of the Board  
2 operation had been in question and the matter of the  
3 segregation of employees in eating establishments. Can  
4 you attach any significance to that whatsoever?

5 THE WITNESS: I didn't regard it as  
6 serious and there is no question there was a section  
7 referred to as the officers mess and a section that  
8 was known as the sergeants mess and the other for the  
9 other ranks.

10 MR. DEANS: You ate in the sergeants  
11 mess?

12 THE WITNESS: No, I was an officer.

13 MR. DEANS: What rank was it?

14 Did you ever discuss the possibility of  
15 opening it up so that the employees might get to know  
16 you a little better?

17 THE WITNESS: No, as a matter of fact I  
18 rarely used the cafeteria at all.

19 MR. DEANS: You rarely ate there?

20 All right, let me leave that and I'll  
21 let someone else ask you.

22 Thank you.

23 THE CHAIRMAN: Mr. Miller?

24 MR. MILLER: Can you please tell me why  
25 Mr. Smola did interfere with the orders for advertising  
26 when you were away?

27 THE WITNESS: He did so as I understand  
28 under the orders of Mr. Draper. You see, Mr. Smola,  
29 before he was seconded, he had been in the Construction  
30 Safety Association and had been seconded over to the



1 Board and at the Construction/Association, he was in the  
2 advertising of that and that was cancelled and we  
3 brought all the construction safety advertising in with  
4 the Board and he had a great deal of knowledge in that  
5 field, and Mr. Draper did too, and Mr. Draper had the  
6 authority to do this.

7 MR. MILLER: Did Mr. Draper have the  
8 authority to do that?

9 THE WITNESS: Not to my knowledge.

10 MR. MILLER: Do you know whether he  
11 received authority from Mr. MacDonald to do this?

12 THE WITNESS: He may have, although I  
13 don't know whether Mr. MacDonald would have the authority  
14 to give him that authority. It was an existing Board  
15 order that made the authority.

16 MR. MILLER: Did you discuss this with  
17 Mr. MacDonald?

18 THE WITNESS: Yes. As I say, the only  
19 time I made a very strong issue was in November -- the  
20 week of November 23rd.

21 MR. MILLER: You mentioned other  
22 unauthorized orders being placed by other employees.  
23 Were there many such orders?

24 THE WITNESS: No, that was the sort of  
25 thing I was referring to and the commitment to give  
26 Foster Advertising 50% of the Board's work which was  
27 sent to us, as we were told, from Mr. Legge through  
28 Mr. MacDonald.

29 MR. MILLER: In this discussion or the  
30 discussions you had in late November and December of 1970





1 when you were suspended and then finally your employment  
2 was terminated, was there any alleged irregularity or  
3 impropriety referred to in your handling of the advertising  
4 orders.

5 THE WITNESS: There were allegations of  
6 impropriety. Well, there was an investigation as I  
7 understand as to whether or not I had done anything  
8 improper, but apparently that was put aside.

9 MR. MILLER: Can you go into the allegations  
10 made?

11 THE WITNESS: They were never really  
12 communicated to me so I am really not in a position to.  
13 That is why I wrote that letter.

14 MR. MILLER: In other words, there is no  
15 reason given to you at all?

16 THE WITNESS: Not specifically.

17 MR. MILLER: What kind of things did they  
18 say to you then?

19 THE WITNESS: The meeting that I attended  
20 on November 29th was very brief and I was alleged to  
21 have had improper dealings with the advertising agencies,  
22 again without specifics.



1 In other words, they referred only  
2 to your authority to place orders?

3 THE WITNESS: I believe so, yes.

4 MR. MILLER: Why was Mr. Draper particularly  
5 likely to be taping incoming calls or meetings?

6 THE WITNESS: I think it was probably the  
7 nature of his past experience. He was an electronics  
8 engineer by trade, he owned a communications company,  
9 he had a great deal of this type of equipment and I guess  
10 he was just in the practice of doing this and he used  
11 electronic equipment continually.

12 MR. MILLER: Do you feel he had an ulterior  
13 motive in doing this?

14 THE WITNESS: I think in some cases he  
15 might have; I am not sure. In other cases he might have  
16 done it just as a convenient record.

17 MR. MILLER: Do you think the people being  
18 taped were aware of it?

19 THE WITNESS: No.

20 MR. MILLER: You mentioned that Mr. Dowding  
21 had heard the tape of your final meeting. Can you go  
22 into the details as to how he happened to hear it played?

23 THE WITNESS: Apparently he was called in  
24 by Mr. MacDonald in his role as Director of Personnel  
25 and it would have been a normal procedure to indicate  
26 to the Director of Personnel that somebody had left the  
27 Board and so this tape was played to him at that time.

28 MR. MILLER: Now you mentioned the  
29 Wessely Hicks tape was played to you?

30 THE WITNESS: Yes.



1 MR. MILLER: Why would that have been  
2 played to you?

3 THE WITNESS: I would presume because it  
4 had involved a former newspaperman and my reaction was  
5 being solicited because press relations were a major  
6 function of mine and there was a possibility that the  
7 subject matter of the tape might become a matter of  
8 public concern.

9 MR. MILLER: It had nothing to do with your  
10 position with the Board?

11 THE WITNESS: No.

12 THE CHAIRMAN: Mr. Allan?

13 MR. ALLAN: Mr. Chairman, I don't want to  
14 thrash a lot of old straw, we've heard what this man has  
15 to offer. Just one question or two questions perhaps.  
16 I find it very difficult to understand that there wouldn't  
17 have been an advertising program that would have been  
18 drawn up and laid out and this was the plan and that you  
19 would fit your advertising into it. Was there no such  
20 a plan?

21 THE WITNESS: There was.

22 MR. ALLAN: Well then, if you fitted it --  
23 your advertising into that plan, wasn't that prearranged  
24 that you would have certain responsibilities in that  
25 area?

26 THE WITNESS: That's right.

27 MR. ALLAN: And this is why you found it  
28 difficult to understand why you ---

29 THE WITNESS: As I say, on three occasions,  
30 specific occasions, the ones that I have specified, in



1 February, September and November, I found that that  
2 advertising program had in fact been ---

3 MR. ALLAN: In your opinion you had been  
4 carrying out the plan that had been developed for the  
5 advertising?

6 THE WITNESS: That's right.

7 MR. ALLAN: --- the structure that had been  
8 set out for the advertising and you were carrying out  
9 your part?

10 THE WITNESS: That's right.

11 MR. DEANS: And the other question that I  
12 wanted to ask you was, was there any complaint previously  
13 about the way you handled this advertising?

14 THE WITNESS: Yes, Mr. MacDonald had  
15 complained on a couple of occasions.

16 MR. ALLAN: A serious complaint or just a  
17 discussion?

18 THE WITNESS: No, I think they were serious  
19 complaints with regard again, as I say, to the un-  
20 authorized dealing with the agencies.

21 MR. ALLAN: This was evidently a difference  
22 of opinion?

23 THE WITNESS: Yes.

24 MR. ALLAN: Do you think there were other  
25 contributing factors to the fact that you were suspended  
26 other than the way you handled the advertising?

27 THE WITNESS: No.

28 MR. ALLAN: You think it was entirely in  
29 the advertising?

30 THE WITNESS: Yes.





1 MR. ALLAN: That was all?

2 THE CHAIRMAN: Mr. Wiseman?

3 MR. WISEMAN: Yes, my question is along the  
4 same as Mr. Allan's, but I wondered, did you ever work  
5 for an advertising firm prior to coming with the Board?

6 THE WITNESS: Yes.

7 MR. WISEMAN: And how many years?

8 THE WITNESS: I worked for -- largely for  
9 firms that are engaged in both public relations and  
10 advertising and I have spent 20 years in all in the  
11 business and some of that was in corporations -- in charge  
12 of public relations and advertising, and in others it  
13 was agencies, and the total in agencies would now be six  
14 years.

15 MR. WISEMAN: Would be the actual placement  
16 of advertising?

17 THE WITNESS: That's right.

18 MR. WISEMAN: Before you came to the Board  
19 would you give us an idea of what the advertising budget  
20 was?

21 THE WITNESS: At the Board?

22 MR. WISEMAN: Yes.

23 THE WITNESS: The Board as I say had no  
24 advertising budget to speak of. It has done very little  
25 direct advertising. However, among them the safety  
26 associations were spending something in the neighbourhood  
27 of a million dollars a year.

28 MR. WISEMAN: And this was -- this is what  
29 you were doing previous to coming to the Board, was it?

30 THE WITNESS: Oh, are you talking ---



1 MR. WISEMAN: I was wondering what the  
2 advertising was at the time you came to the Board. Like  
3 you must have had some idea of how much money you had to  
4 spend?

5 THE WITNESS: Well, prior to coming to the  
6 Board the Board itself as I say was not spending adver-  
7 tising money, but when I came to the Board I was made  
8 aware that the budget when the advertising was brought  
9 in from the safety associations would be in the neighbour-  
10 hood of a million dollars.

11 MR. WISEMAN: Like when you left had you  
12 increased that budget and had you got more money in the  
13 Board?

14 THE WITNESS: No, it was in the same  
15 neighbourhood.

16 MR. WISEMAN: On these two occasions you  
17 overstepped in the television advertising, how much money  
18 was involved?

19 THE WITNESS: It would be in the hundreds  
20 of thousands of dollars. It was within the budget.

21 MR. WISEMAN: Would you normally have gone  
22 to spend that money without the consent of the Board?  
23 This is what I am getting at. I wonder if I was in  
24 business if I would allow that to happen.

25 THE WITNESS: Well, there was an ongoing  
26 advertising program in that dollar area and those  
27 dollars were set aside. It was not additional dollars.

28 MR. WISEMAN: But to spend that kind of  
29 money you didn't think it was important enough to take  
30 it up with the Board?



1 THE WITNESS: Oh, I was trying to get to  
2 the Board, I was fed to the ears trying to get to the  
3 Board.

4 MR. WISEMAN: But I meant when you were  
5 involved in these two occasions when you didn't go to the  
6 Board with the money you spent for the placing of  
7 advertising. Wasn't that your testimony there?

8 THE WITNESS: Yes, the question was did  
9 I not ---

10 MR. WISEMAN: But you mention two occasions  
11 that you said you hadn't gone to the Board and this is why  
12 I wondered, how many thousands of dollars, when you say  
13 hundreds of thousands of dollars -- would it have been  
14 cheaper to place all your advertising with one advertis-  
15 ing firm?

16 THE WITNESS: No. The advertising agencies  
17 operate on a commission basis and they are paid commis-  
18 sions by -- which is normally 15% so it doesn't matter  
19 the number of agencies.

20 MR. WISEMAN: Mr. Draper was on the same  
21 level as you?

22 THE WITNESS: That's right.

23 MR. WISEMAN: You didn't work together on  
24 this at all?

25 THE WITNESS: We were supposed to work in  
26 concert in that this aspect of advertising was intended  
27 to promote his area of special concern which was safety  
28 education.

29 THE CHAIRMAN: Mr. Ferrier?

30 MR. FERRIER: Yes, I just have one question.



1 Mr. Wiseman cleared up one point for me.

2 Mr. Dowding in his article stated in effect  
3 that when Mr. Decker had a discussion with him that he  
4 was requested by Mr. MacDonald to send a memorandum of  
5 this conversation to him or to the Chairman. Now, you  
6 mentioned that you had some discussions with Mr. Decker.  
7 Was it asked of you that you send a memorandum of your  
8 discussions to Mr. MacDonald?

9 THE WITNESS: Yes, sir.

10 MR. FERRIER: It was?

11 THE WITNESS: Yes, sir. I was asked to  
12 give some indication of the frequency and the subject  
13 matter of the discussions.

14 MR. FERRIER: Did you comply with this?

15 THE WITNESS: I did, regrettably, yes.

16 MR. FERRIER: You don't know how many you  
17 would have sent?

18 THE WITNESS: It was one memo, but it was  
19 to cover everything up to that point and it was made  
20 clear -- well, Mr. MacDonald said that if it came to a  
21 showdown that Mr. Legge would be the survivor. In other  
22 words, be on the right team.

23 MR. FERRIER: Was it the same also for any  
24 conversations you had with Mr. Hamilton?

25 THE WITNESS: No, I don't recall that it  
26 was. It seemed to me that Mr. Decker at that time -- I'm  
27 trying to recall now whether this was prior to Mr.  
28 Hamilton's arrival. I believe they arrived at about a  
29 month apart at the Board and Mr. Decker began to mention  
30 the morale situation and he found the relationship between





1 the principal officers and the Chairman -- and of course  
2 he had what must have been a pretty shocking experience  
3 to him on the 1st of January which was a pretty hair-  
4 raising event.

5 MR. FERRIER: Did you think that it was  
6 unusual that you would be asked to make this kind of  
7 memoranda or did you go along and comply without much  
8 thought?

9 THE WITNESS: I would have considered it  
10 unusual in any other area. It is unheard of in any other  
11 area.

12 THE CHAIRMAN: Mr. Gaunt?

13 MR. GAUNT: Mr. Tannian, when you mentioned  
14 the Board worked with some nine advertising agencies ---

15 THE WITNESS: No, nine advertising agencies  
16 submitted presentations, but out of those three were  
17 selected.

18 MR. GAUNT: Some were volunteered, others  
19 were asked for?

20 THE WITNESS: Yes, we invited some and  
21 others came to us and asked if they could make present-  
22 ations and generally speaking anybody who asked if they  
23 could make presentations was permitted to. Now there  
24 were a couple I discouraged because I felt we couldn't  
25 justify the expense because they were personal friends  
26 and they were with United States based agencies and I  
27 told them that I would think their chances of getting  
28 the business would be very slim.

29 MR. GAUNT: So the agencies that do business  
30 with the Board or did at that time were what agencies?



1 THE WITNESS: Foster Advertising; Roberts,  
2 Fenton and McConnell; and Willis Advertising.

3 MR. GAUNT: And at one point you mentioned  
4 that Mr. Legge mentioned that Foster Advertising should  
5 receive 50%?

6 THE WITNESS: This was indicated through  
7 Mr. MacDonald. Mr. Legge didn't indicate it to me  
8 directly, but Mr. MacDonald said it was his wishes.

9 MR. GAUNT: They made representations which  
10 I gather subsequently were unacceptable?

11 THE WITNESS: They made a series of represent-  
12 ations and they were in my judgment, and I know at the  
13 time, they were also in the judgment of Mr. Draper and  
14 Mr. MacDonald very weak.

15 MR. GAUNT: Would you have any idea why  
16 Mr. Legge would want -- would indicate that specific  
17 information that Foster receive 50%?

18 THE WITNESS: I might have suspicions, but  
19 no direct knowledge.

20 MR. GAUNT: You mentioned that Mr. Legge,  
21 I believe, met with some advertising executives from  
22 Foster?

23 THE WITNESS: He met with Mr. Foster.

24 MR. GAUNT: I see. Do you have any knowledge  
25 in addition to that as to what transpired?

26 THE WITNESS: No, sir.

27 MR. DEANS: If I may interject, you don't  
28 have any direct knowledge that Mr. Legge ever did tell  
29 Mr. MacDonald to tell you that?

30 THE WITNESS: Only Mr. MacDonald's word.



1 MR. DEANS: But you have no direct knowledge  
2 that Mr. Legge ever said it?

3 THE WITNESS: No, that's what I said. I've  
4 said that a couple of times.

5 MR. DEANS: I want to be clear on that  
6 because you can hardly attribute motive if you do not  
7 have knowledge that a person said something.

8 THE CHAIRMAN: Proceed, Mr. Gaunt.

9 MR. GAUNT: In addition then, I gather from  
10 what you have said that Foster Advertising did not do  
11 any advertising as such for the Board, but they were in  
12 charge of placing that advertising so they did have a  
13 role in the entire operation?

14 THE WITNESS: Yes, they had a presentation  
15 of the budget.

16 MR. GAUNT: Perhaps this is a rather  
17 personal question and if you don't want to answer, don't  
18 answer. Would you say in your view Mr. Draper and you  
19 were in competition?

20 THE WITNESS: Yes.

21 MR. GAUNT: Thank you.

22 THE CHAIRMAN: Have you completed, Mr.  
23 Gaunt?

24 MR. GAUNT: Yes.

25 THE CHAIRMAN: Any other questions?

26 Mr. Wiseman?

27 MR. WISEMAN: I just wondered, is it common  
28 to do this with advertising to have one place the ads  
29 and the other to maybe write them up; is this done in the  
30 advertising business? I believe it is, isn't it?



1 THE WITNESS: Not normally.

2 MR. WISEMAN: I've known others to do it.

3 THE WITNESS: Normally when one organization  
4 uses more than one agency the work assignment is such  
5 that they operate differently. Take an automobile  
6 manufacturer, for example, or a food manufacturer, they  
7 would assign certain products or maybe the corporate  
8 advertising to an agency and other products to others  
9 and so on, but since they are not independent and  
10 perhaps in competition and that is why automobile  
11 manufacturers who are in one line products, one agency,  
12 and another in respect to repeat.

13 MR. WISEMAN: There is just one I couldn't  
14 get clear and this one you mentioned you were ridiculed  
15 for not bringing it to the Board on different occasions  
16 and the monies involved amounted to hundreds of thousands  
17 of dollars. It looks like a good percentage of the  
18 budget and was there anyone else that saw those present-  
19 ations or heard those presentations besides yourself,  
20 or did you just take that yourself or did Mr. Draper  
21 go in with you on that?

22 THE WITNESS: No, there was just me.

23 MR. WISEMAN: Just yourself? This would be  
24 approximately what percentage of the budget, if you had  
25 a million dollars?

26 THE WITNESS: Maybe ten.  
27  
28  
29  
30





1 MR. DEANS: Did you do any speech writing?

2 THE WITNESS: A great deal.

3 MR. DEANS: Did you have any hand in the  
4 writing of this speech with regard to the remission of  
5 penalties, the one given by Mr. Draper in October, I believe,  
6 of 1971?

7 THE WITNESS: I was involved directly or  
8 indirectly in the preparation of more than one speech having  
9 to do with extra assessments and relief from them.

10 MR. DEANS: Can you recall from looking --  
11 let me ask you, do you know what I am speaking about,  
12 the speech in which Mr. Draper indicated that a large  
13 manufacturer was about to receive a Christmas greeting?

14 THE WITNESS: No, I didn't write that one.

15 MR. DEANS: You didn't write that one?

16 THE WITNESS: No.

17 MR. DEANS: It was a poor choice of words.  
18 In your speech writing, did you assist Mr. Legge in the  
19 preparation of his major and minor papers for presentation?

20 THE WITNESS: Yes, I and members of my staff  
21 were involved in a great deal of activity, research and  
22 the preparation of actual scripts or contributions to the  
23 speeches. Mr. Legge would select from what was prepared  
24 for him and perhaps edit and update and so on but we did  
25 a great deal of that.

26 MR. DEANS: Was it a major involvement by  
27 your department?

28 THE WITNESS: Yes, very much.

29 MR. DEANS: It does take up a great deal of  
30 that department's time?



1 THE WITNESS: A great deal, yes.

2 MR. DEANS: How much of the preparation was  
3 done by Mr. Legge? Did he come down and say, "Look, I've  
4 gathered together all this material and I would like you  
5 to take it and sift through it and prepare something for  
6 me?"

7 THE WITNESS: The normal procedure --  
8 actually there were various procedures and he might, for  
9 example, send along a note, for example, that he was going  
10 to be speaking to the St. George Society on a particular  
11 evening and could we get some thoughts together along  
12 such and such a line or if there was a major, say, safety  
13 speech, he might say that he would like something along  
14 the lines of something that he had delivered on another  
15 occasion or introducing certain aspects, want to discuss  
16 certain angles and the procedure would be we would put  
17 together suggestions and go over them with him.

18 MR. DEANS: You are aware of Mr. Legge's  
19 reference to his major involvement in the delivery --  
20 preparation and delivery of papers, one to the -- one on  
21 the medical -- I can't recall the exact phrase --  
22 "Confidentiality of Medical Reports," would you play a part  
23 in that part of that major document?

24 THE WITNESS: I don't believe we were involved  
25 in that specific one. I believe he went to the people whose  
26 area of competence it was who were the medical people and  
27 legal people who were mostly involved in that.

28 THE CHAIRMAN: Mr. Rollins?

29 MR. ROLLINS: Yes, Mr. Chairman, I would  
30 like to ask Mr. Tannian, with the amount that was allotted



1 for the advertising, which is the item of discussion, has  
2 this amount since this time of spending, has it been a normal  
3 procedure to continue spending that amount on advertising?

4 THE WITNESS: Since ---

5 MR. ROLLINS: Since your time when you were  
6 -- relinquished your position as such.

7 THE WITNESS: As far as I know, the advertising  
8 budget was in the same area but I don't have any direct  
9 knowledge there.

10 MR. ROLLINS: Are you acquainted with the  
11 gentleman or the individual who followed your position?

12 THE WITNESS: Yes.

13 MR. ROLLINS: Have you ever discussed it?

14 THE WITNESS: No.

15 MR. ROLLINS: But you are acquainted?

16 THE WITNESS: Yes, he was a principal officer  
17 of the Board as I was.

18 MR. ROLLINS: That's all.

19 THE CHAIRMAN: Mr. Wiseman?

20 MR. WISEMAN: I just wondered, would Foster  
21 Advertising Agencies have agencies in all the major cities  
22 throughout Ontario where the other two agencies may not?  
23 Would this help in the placing of the advertising?

24 THE WITNESS: All the placing of the adver-  
25 tising was done in Toronto.

26 MR. WISEMAN: The other two agencies, are  
27 they a lot smaller than the Foster Agency?

28 THE WITNESS: They are quite a bit smaller  
29 but they did place a great deal of advertising. It wouldn't  
30 have been a great deal of a problem for them to place.



1 MR. WISEMAN: It wouldn't have been easier  
2 for Foster if they had agencies in the prime centres to  
3 get prime time, to get the placement.

4 THE WITNESS: Most of the dealing is done,  
5 and I'm talking about television now and the radio represent-  
6 atives, most of them operate out of here and the newspapers  
7 again, and in that case, it is a group purchase and various  
8 newspapers.

9 MR. WISEMAN: It's my experience if you have  
10 someone in that particular city, you would have a better  
11 time.

12 THE WITNESS: I surely don't think any of  
13 the three agencies involved have, to my knowledge, offices  
14 in other than Toronto, in Ontario, they may have.

15 MR. WISEMAN: (unintelligible)

16 MR. DEANS: Why did they cut out Wingham  
17 and Windsor?

18 THE WITNESS: The area around Wingham, I  
19 understand, is that area was being served in some other  
20 way, which I was never satisfied with the explanation,  
21 that there was a spillover from Kitchener, I think, and  
22 Windsor, the argument was that it was mostly lost because  
23 most of the Windsor station viewers were in the United  
24 States and most of the Canadians / to Detroit television.  
25

26 MR. DEANS: What was the purpose of the  
27 advertising since that argument was used, was it to inform  
28 the workers of Ontario of their rights?

29 THE WITNESS: No, this was entirely safety  
30 oriented, accident prevention.

MR. DEANS: Accident prevention.





1 THE CHAIRMAN: Has counsel for the other  
2 witnesses ---

3 Oh, I am sorry, Mr. Lawlor.

4 I thought we agreed this morning, that  
5 otherwise ---

6 MR. LAWLOR: Would it be fair in continuity  
7 to Mr. Gaunt's question too that Mr. Draper's would not be  
8 a matter of competition but back to conflict?

9 THE WITNESS: No, actually funnily enough  
10 Mr. Draper and I got along as well as any two other people  
11 among the principal officers. I developed the attitude  
12 that he seemed to find this a new toy. He hadn't been  
13 involved in advertising and suddenly -- you see your own  
14 television commercials and newspaper advertising ---

15  
16 MR. LAWLOR: Apart from the two occasions  
17 on your absences, were your orders countermanded or sub-  
18 stituted for while you were actually on the premises?

19 THE WITNESS: No.

20 MR. LAWLOR: Just briefly, what were the  
21 periods of time in the absences?

22 THE WITNESS: Periods of time.

23 MR. LAWLOR: How long on each one?

24 THE WITNESS: The first one I had gone to  
25 a meeting and my mother was coming from a traffic accident  
26 at the same time and I was up a total of, about seven or  
27 eight days I was up at that time, and the second time I  
28 was away about ten days, that was a partial vacation, and  
29 the third time two days.

30 MR. LAWLOR: And I just want to get the



1 chronology straight. In your first absences, the last  
2 one -- one was in February and the last in September and  
3 then this meeting in the Foster Boardroom, I understand  
4 it took place in October of that year?

5 THE WITNESS: That's right.

6 MR. LAWLOR: Then this is where you were  
7 given certain instructions by Mr. MacDonald; is that correct?

8 THE WITNESS: That's right.

9 MR. LAWLOR: Was there a member of the  
10 Foster Agency there at the time?

11 THE WITNESS: No, just three of us there.

12 MR. LAWLOR: And then you had a subsequent  
13 absence later in November of that year. Why then did you  
14 -- or do you consider yourself to have done -- deliberately  
15 run into the face of the instructions that you were given  
16 and place advertising in the old way or as you saw fit?

17 THE WITNESS: Well, after -- after that  
18 October instruction, I never placed any additional adver-  
19 tising or any changed advertising.

20 MR. LAWLOR: Then when would this advertising  
21 have taken place?

22 THE WITNESS: This was ongoing throughout  
23 the year.

24 MR. LAWLOR: What instruction precisely was  
25 it that you were under at the time then?

26 THE WITNESS: Well, my view of it was that  
27 I was instructed to operate an advertising program, to  
28 develop advertising via the agencies and to place it.

29 MR. LAWLOR: And that is precisely what you  
30 were doing?



1 THE WITNESS: I did, except I had to taken  
2 the specific commercials and the specific advertising  
3 program to the Board for their authority.

4 MR. LAWLOR: Subsequent to the time you  
5 were told that Foster would get 50%, you followed that  
6 mandate of those orders?

7 THE WITNESS: That is right.

8 MR. LAWLOR: And in the course of preparing  
9 speeches for a man would you not come into very close  
10 contact with him in consultation over the verbiage and  
11 the reference that might go into that speech?

12 THE WITNESS: Yes.

13 MR. LAWLOR: And you came to know Mr. Legge  
14 rather well then?

15 THE WITNESS: Yes.

16 MR. LAWLOR: Would you do this in his  
17 office or your office?

18 THE WITNESS: His office.

19 MR. LAWLOR: Would you get along splendidly  
20 with him?

21 THE WITNESS: Very well.

22 MR. LAWLOR: Now one thing that bothered  
23 me and I may be misplacing some emphasis on it, are you  
24 telling the Board here today everything that you know,  
25 or in response to an earlier question something about the  
26 word "voluntarily" came up and you preferred to give a  
27 question and answer. Is there anything else that we should  
28 know that you, for one reason or another don't wish to  
29 disclose?

30 THE WITNESS: Well, sir, I thought that the



1 question and answer format would be the most suitable;  
2 in other words, rather than making a presentation or  
3 statement.

4 MR. LAWLOR: So you have made a full and  
5 complete statement as far as you are concerned?

6 THE WITNESS: I think I have covered just  
7 about everything.

8 MR. LAWLOR: Just one final question: in  
9 these Foster instructions in the boardroom not only would  
10 they get 50% but they were to screen all the rest, were  
11 they?

12 THE WITNESS: Screen? No, I don't think  
13 so. I think they were just to get 50% of the business.

14 MR. LAWLOR: The rest would be let out to  
15 the other two firms?

16 THE WITNESS: Yes.

17 MR. LAWLOR: Thank you very much.

18 THE CHAIRMAN: Have counsel for the other  
19 witnesses questions to put to the witness through Committee  
20 Counsel?

21  
22  
23  
24  
25  
26  
27  
28  
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30





1 MR. DONNELLY: Mr. Tannian, I have been  
2 asked by Mr. Cauley's counsel to inquire if you know any-  
3 thing surrounding the circumstances regarding Mr.  
4 Cauley's resignation?

5 THE WITNESS: No direct knowledge. The  
6 only connection I had was that one day -- I don't  
7 remember the date, I only know that it was early in  
8 1969, Mr. MacDonald told me that he had been out to  
9 Mr. Cauley's house to ask for his resignation.

10 MR. DONNELLY: Anything further, sir?

11 THE WITNESS: No.

12 MR. DEANS: Surely he is not going to  
13 drop it at that. Would you care to restate that for  
14 me, please?

15 THE WITNESS: Mr. MacDonald told me that  
16 he had been to Mr. Cauley's residence to ask for his  
17 resignation.

18 MR. LAWLOR: Had he got it?

19 THE WITNESS: I believe he had, yes.

20 MR. DEANS: To ask for his resignation.  
21 You are sure those were the words?

22 THE WITNESS: He might have said "demand".

23 MR. DEANS: Pardon?

24 THE WITNESS: He might have said, "demand."

25 MR. DEANS: But you are positive that that  
26 was the intent of the conversation you had, that Mr.  
27 MacDonald said he had been to Mr. Cauley's house to  
28 ask for his resignation?

29 THE WITNESS: And that Mr. Cauley would  
30 be kept on full salary until he had reached his pension.



1 MR. DEANS: I am not questioning you, but  
2 I want to be sure. You are sure that none of what you  
3 have read or heard has refreshed your memory?

4 THE WITNESS: No, I remember that very  
5 clearly. It may have refreshed my memory, but I would  
6 have recalled it very clearly anyway.

7 MR. DEANS: You don't refresh it to the  
8 point of things you didn't hear, but I want to be sure.

9 THE WITNESS: It is very accurate.

10 MR. ALLAN: Mr. Chairman, could I just  
11 ask one question?

12 THE CHAIRMAN: Just a moment, Mr. Allan.  
13 Have you been here during all the sittings?

14 THE WITNESS: Oh no. I have been here  
15 only one ---

16 MR. ALLAN: I wonder if you know that  
17 Mr. MacDonald gave evidence that is entirely contradictory  
18 to what you are saying?

19 THE WITNESS: I wasn't aware of that;  
20 I thought I had read the newspaper report of his  
21 statement. I did read it as a matter of fact, but I  
22 don't remember that particular point. I read it at  
23 breakfast one morning and I didn't read it that rapidly  
24 or that carefully I suppose.

25 THE CHAIRMAN: Anything more, Mr.  
26 Allan?

27 MR. ALLAN: I think it is unfortunate  
28 that he destroyed the credibility of his evidence by  
29 something that he repeat what someone has told him.

30 MR. MAECK: Where did this conversation



1 take place with Mr. MacDonald?

2 THE WITNESS: It was on the fourth floor  
3 of the Workmen's Compensation Board offices in the  
4 vicinity of the boardroom.

5 MR. MAECK: And was anyone there besides  
6 you when this conversation took place?

7 THE WITNESS: No, sir.

8 MR. MAECK: Just you and Mr. MacDonald?

9 THE WITNESS: That's right. It was a  
10 casual conversation naturally.

11 MR. MAECK: You distinctly remember that  
12 he said he asked for his resignation?

13 THE WITNESS: Yes.

14 THE CHAIRMAN: Mr. Deans, have you one  
15 final question?

16 MR. DEANS: I am not sure if I have one  
17 final question, but I have one other question.

18 THE CHAIRMAN: We could go on with this  
19 matter for a month.

20 MR. DEANS: It happens to be a matter of  
21 some considerable importance and the last statement is  
22 perhaps as important as any other that you have made.  
23 Can you recall anything else about the circumstances  
24 surrounding the conversation you had with Mr. MacDonald  
25 when he made that statement? Was it in the morning?

26 THE WITNESS: I don't remember that. I  
27 remember him standing there saying it, and I can remember  
28 exactly where it was but ---

29 MR. DEANS: Were you discussing another  
30 matter at the time?



1 THE WITNESS: No, I don't think so; not  
2 that I recall.

3 MR. DEANS: Was Mr. MacDonald in the  
4 habit of stopping you in the hall and casually ---

5 THE WITNESS: We chatted quite often.

6 MR. DEANS: You chatted with Mr. MacDonald  
7 regularly?

8 THE WITNESS: Very often, yes.

9 MR. DEANS: And he was in the habit then  
10 of sort of passing his small talk with you in the hall?

11 THE WITNESS: Yes, sir.

12 MR. DEANS: All right.

13 THE CHAIRMAN: Counsel, have you something?

14 MR. DONNELLY: There is something really  
15 that struck me as odd, with great respect, it was that  
16 the tag end of your recollection of the conversation with  
17 MacDonald. Can you tell me again what you recall  
18 MacDonald saying?

19 THE WITNESS: That he had been out to  
20 Mr. Cauley's residence and that he had obtained from him  
21 or asked for his resignation and that Mr. Cauley would  
22 be kept on full salary until his retirement from the  
23 Board.

24 THE CHAIRMAN: Do you recall anything else?

25 THE WITNESS: No, that is all that I  
26 specifically recall.

27 MR. DONNELLY: How clear is your recollection  
28 about what you have repeated to me?

29 THE WITNESS: Very clear.

30 MR. DONNELLY: It seems extremely odd to me





1 that the last part of the sentence about the salary  
2 privilege to normal retirement, it seemed to me to come  
3 to you almost as an afterthought. Do you agree with  
4 that?

5 THE WITNESS: Yes, I do.

6 MR. DONNELLY: A very important piece of  
7 news to come in that manner, I would suggest.

8 THE WITNESS: Yes.

9 MR. DONNELLY: Pardon me?

10 THE WITNESS: I agree.

11 MR. DONNELLY: Would you agree that that  
12 might have some bearing on the weight that the Committee  
13 might put on that statement by you?

14 THE WITNESS: No, because as I was answering  
15 the question I sort of had a photographic flashback of  
16 that -- of the action.

17 MR. DONNELLY: Just an inspiration from  
18 above?

19 THE WITNESS: You can call it what you  
20 like.

21 MR. DONNELLY: That's what happened, it  
22 was inspirational, was it, you hadn't thought of it  
23 before?

24 THE WITNESS: Prior to today I had, yes.

25 MR. DONNELLY: You read the newspapers  
26 relative to this Inquiry, didn't you?

27 THE WITNESS: I have read quite a bit of  
28 it, yes.

29 MR. DONNELLY: And you knew one of the  
30 major issues was the circumstance of Mr. Cauley's



1 retirement and his claim that he hadn't been properly  
2 paid?

3 THE WITNESS: Well I also recalled it  
4 before there was any article in the newspapers, sir.

5 MR. DONNELLY: Do you recall what I  
6 asked you?

7 THE WITNESS: Pardon?

8 MR. DONNELLY: Do you recall the question  
9 I asked you?

10 THE WITNESS: As to whether or not ---

11 MR. DONNELLY: I say to you this, you  
12 have already told us that you read the newspapers at  
13 breakfast about a certain item and I am saying that  
14 obviously you have read the papers.

15 THE WITNESS: Yes.

16 MR. DONNELLY: Having done so you must  
17 know that one of the important issues for the Committee  
18 is the circumstance of the Cauley severance?

19 THE WITNESS: I am aware of that, yes.

20 MR. DONNELLY: It seems to me that with  
21 that knowledge it is quite remarkable that your evidence  
22 should come from you the way it did.

23 THE WITNESS: Well, it may be remarkable  
24 to you, I grant you that.

25 MR. DONNELLY: I see. Does it seem odd  
26 to you? Would you concede to me that?

27 THE WITNESS: No.

28 MR. DONNELLY: I see.

29 MR. DEANS: Had you ever been asked by  
30 anyone else, sir, if you can recall -- that if you



1 could recall anything surrounding Mr. Cauley's resignation?

2 THE WITNESS: No, sir.

3 MR. DEANS: Have you spoken with Mr. Cauley  
4 in the last year?

5 THE WITNESS: Not until I met him out in  
6 the hall here last week.

7 MR. DEANS: Mr. Cauley didn't mention  
8 to you or anything about your knowledge of his resignation?

9 THE WITNESS: No, sir, Mr. Cauley and I  
10 weren't really well acquainted. As a matter of fact  
11 when we met in the hall he just asked me if I was Mr.  
12 Tannian.

13 THE CHAIRMAN: Mr. Miller?

14 MR. MILLER: I am trying to relate this  
15 to the dates of May, 1969 or wherever it was that Mr.  
16 MacDonald visited Mr. Cauley. Do you recall whether  
17 this was shortly after the visit, in other words, before  
18 it was public knowledge that Mr. Cauley had resigned?

19 THE WITNESS: I know it was in the spring  
20 of '70 -- or I should say '69. It seems to me that  
21 it was a short time after Mr. Cauley had left the Board.

22 MR. MILLER: A short time after he had  
23 left the Board?

24 THE WITNESS: Well, through illness.

25 MR. MILLER: So it would be in April?

26 THE WITNESS: It could have been; I don't  
27 remember.

28 MR. MILLER: So you are implying then that  
29 Mr. Cauley resigned well in advance of the May 5th  
30 meeting?



1 MR. DEANS: No, he is not implying that  
2 at all.

3 THE CHAIRMAN: Counsel, have you further  
4 questions?

5 MR. DONNELLY: No, sir.

6 THE CHAIRMAN: Has counsel for any of the  
7 other witnesses any questions to ask this witness through  
8 Committee Counsel?

9 Mr. Austin?

10 MR. AUSTIN: Not now, Mr. Chairman.

11 THE CHAIRMAN: Mr. Tannian, you may be  
12 excused.

13 Thank you for assisting the Committee.

14 MR. DONNELLY: Mr. Chairman, my apology,  
15 I neglected to introduce Mr. William Greene who appeared  
16 with Mr. Tannian.

17 THE CHAIRMAN: Thank you.

18 MR. DONNELLY: Donald C. Brown, please.

19 THE CHAIRMAN: (Swears the witness).

20 DONALD C. BROWN, sworn:

21 MR. DONNELLY: Mr. Chairman, Mr. Brown  
22 appears with his counsel, Mr. F. R. Bowman.

23 Q. Your full name, sir?

24 A. Donald C. Brown.

25 Q. Did you wish to give your evidence  
26 by a statement, sir?

27 A. Questions and answers, sir.

28 Q. And what is your present occupation,  
29 sir?

30 A. I am the head of a communications





1 consulting firm.

2 Q. And at some time were you in the  
3 employment of the Workmen's Compensation Board?

4 A. Yes, sir, from July 1st, 1965 to  
5 June 30th, 1966.

6 Q. And your capacity there, sir, was?

7 A. Director of Public Relations. At  
8 that time I was entirely in that occupation.

9 Q. Prior to that what was your  
10 occupation?

11 A. I was in three areas of responsibility  
12 with Chrysler of Canada before going with the Board.

13 Q. Did you have any experience with  
14 the Compensation Board, sir, before coming to them in  
15 1965?

16 A. No, sir.

17 Q. And were you familiar with the Act  
18 or the workings of the Board at that time?

19 A. Very vaguely, sir.

20 Q. And how did that affect your work  
21 there, sir?

22 A. If I may, sir, I would like to  
23 preface my answer by telling you the responsibilities  
24 I inherited when I went to the Board -- or the  
25 responsibilities which I had. Basically on joining the  
26 Board my prime requirements were in the operations and  
27 policies of the P.R. department and I made whatever  
28 changes were necessary. They were the duties and  
29 capabilities of my staff, learning the general policies  
30 and operations of the Board.



1 Q. I wonder if you could go a little  
2 more slowly for us, sir?

3 A. Should I start over?

4 Q. I think so, please.

5 A. On joining the Board as Director  
6 of Public Relations my prime requirements were to learn  
7 the operations and policies of the Public Relations  
8 Department.

9 Learn the capabilities and duties of  
10 the staff of the Public Relations Department.

11 To learn the general policies and the  
12 operations of the Board.

13 To understand the Workmen's Compensation  
14 Board regulations.

15 To learn the positions and responsibilities  
16 of senior and management officers of the Board, and  
17 their department.

18 And to learn the five different offices  
19 of the Board which I was told would come under my  
20 jurisdiction. Those are some

21 Q. Those are some other than Toronto,  
22 I take it?

23 A. Yes, in Ontario, five different  
24 cities in Ontario.

25 Q. And this being your scope of  
26 operation, can you tell how you got along, sir, then  
27 as you became familiar with your job?

28 A. I would like to add to that, sir,  
29 my acquired duties after I became functional in the  
30 office which would then give my entire role of responsibilities



1 I think that might be the best way to explain my  
2 occupation. I attended weekly executive meetings --  
3 I call them executive meetings. I believe the previous  
4 witnesses referred to them as senior officers meetings  
5 or something. They were Friday meetings when I was  
6 there; I understand that was changed since.

7                 Shortly after joining the Board I  
8 occupied an important role in the operations during  
9 the mail strike. We had a mail strike then I think  
10 for two weeks and we had set up a communications  
11 system throughout the province to advise recipients  
12 of Board payments and how they could receive their  
13 cheques and it involved both news releases, setting  
14 up various locational operations and an advertising  
15 program. I was involved in preparing speech material  
16 for the Chairman. Some few months after joining the  
17 Board I was involved very deeply in preparing a P.R.  
18 program and a comprehensive speaker's bureau for the  
19 introduction of farm legislation, that is, farmers  
20 coming into the regulations of the Workmen's Compensation  
21 Board. I was to visit the district offices to observe  
22 operations, meet the managers of staff and to establish  
23 the managers in each of those offices as my P.R.  
24 representative in the district. I also assisted in the  
25 publication of the Workmen's Compensation Board Compensator  
26 and other papers and the operation of the library system  
27 of the Board.

28                 Q.     Compensator is some type of staff?

29                 A.     Compensator is some type of staff  
30 paper and it also goes out to -- I believe it also goes



1 out to the recipients and also the employers who pay  
2 into -- their fees into the Board.

3 Q. Sir, you appear to be reading to  
4 me from some brief and I have not a copy, and it is  
5 difficult for me to anticipate.

6 A. It's not a prepared brief, sir,  
7 it's just a memory log I have kept.

8 Q. I am simply saying, would it be  
9 simpler if you just went ahead?

10 A. No, I just use it really to establish  
11 my responsibilities, sir. I think I can speak verbatim  
12 from now on.

13 Q. All right, thank you. Sir, I was  
14 asking you earlier, having found yourself in a position  
15 of having these many responsibilities and areas to work  
16 in, can you tell us how you got along with the Board  
17 in the time you were there?

18 A. For the first month or so I was  
19 left fairly alone to establish myself there which was  
20 a very demanding occupation. Particularly I was trying  
21 to learn as much as I could about the W.C. regulations  
22 which I do know are voluminous and very detailed.

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1                   There developed a situation where I didn't  
2 seem to be satisfying the chairman of the Board with the  
3 operations of my department.

4                   Q.     The chairman of the Board at that time  
5 was?

6                   A.     Mr. Legge.

7                   Q.     How did that come about, sir?

8                   A.     Mainly at the Friday morning meetings  
9 of the principal officers.

10                  Q.     And was that a weekly meeting?

11                  A.     Yes, it was, mostly on Friday mornings  
12 at 10:00 o'clock.

13                  Q.     And you were a principal officer, were  
14 you, sir?

15                  A.     Yes, sir.

16                  Q.     Obliged to attend?

17                  A.     I was under instructions to attend  
18 if I was in the city, sir.

19                  Q.     What was your experience in connection  
20 with those meetings, sir?

21                  A.     I am being very objective on this,  
22 sir, and I found out that in the case of questioning by the  
23 chairman, I felt more like being interrogated.

24                  Q.     Was this questioning directed towards  
25 you?

26                  A.     Towards me and my operations of my  
27 department, yes, sir.

28                  Q.     By the chairman?

29                  A.     Yes.

30                  Q.     And you say you had the sensation or



1 the sense of being interrogated?

2 A. Yes.

3 Q. In any particular area, sir, or any  
4 particular reasons you were aware of?

5 A. Well, in the general operations, but  
6 I think to add to my remarks that I was in the form of  
7 learning. You just don't start operating our department  
8 efficiently after you have been there three or four weeks  
9 or even two months, particularly when you had such a  
10 responsibility, there was a mail strike and staff changes.

11 Q. Can you expand on what you mean by  
12 you were interrogated, sir?

13 A. If I didn't come up with the proper  
14 answer, I was subjected to a very, I thought, severe and  
15 unnecessary cross-examination of why I did not come up with  
16 an answer and there was a time element involved in every  
17 answer and I did my best to provide that information when  
18 it was required.

19 Q. When did this condition first exist?

20 A. You are asking me to go back seven  
21 years on memory, sir. Around September when I joined there  
22 and the first of July.

23 Q. And for how long did it continue?

24 A. Well, it continued until I left the  
25 following June. No, I will correct that, it continued until  
26 about Easter of the next year and then my association or  
27 contacts with the chairman ceased.

28 Q. Were you the only person subjected to  
29 this type of treatment or was it common to others, sir?

30 A. There were others that were given the



1 same treatment at those morning sessions, sir.

2 Q. On a regular basis?

3 A. No, it was sporadic, depending on what  
4 was on the agenda or what the chairman intended to ask a  
5 specific person.

6 Q. Was it regular or sporadic in your  
7 case, sir?

8 A. It was more regular than I liked it.

9 Q. Originating with Mr. Legge?

10 A. Yes, sir, I had no interrogation of  
11 any serious nature with Mr. Cauley or with Dr. Steele.

12 Q. And you can't give us any further help  
13 as to how regular it was other than it was too regular?

14 A. Well, they were numerous, sir, over  
15 the period of, say, from September until Easter until I  
16 was not to attend any more principal officer meetings.

17 Q. What was it, sir -- can you tell us,  
18 sir, what it was that brought that change about?

19 A. I think in all fairness, I think  
20 Mr. Legge is a very aggressive person and I believe he  
21 expected everybody else that reported to him to have the  
22 same aggressiveness regardless of what circumstances they  
23 were working under. As I said before, my circumstances  
24 were trying to understand the operations of the Board because  
25 I had only been there a few months, trying to learn the  
26 regulations of the Board and trying to operate it properly  
27 at the same time. I found that there was an overloading  
28 situation and I was not able to come up with the proper  
29 answers at the proper times.

30 Q. Had you contacted Mr. Legge other than



1 at these meetings, sir?

2 A. Yes, sir.

3 Q. Could you tell us about that?

4 A. I was in his office numerous times,  
5 particularly with reference to speech writing and also we  
6 were in various contact with respect to the time of the  
7 mail strike and also on the visit -- to the loan offices,  
8 to the district offices following that mail strike.

9 Q. What was your relationship with him  
10 in those circumstances, sir?

11 A. It was very friendly and I thought  
12 very productive.

13 Q. And I was asking, sir, what it was  
14 that brought about this condition when you were invited  
15 not to attend the principal officers meetings?

16 A. I would like to give you a very short  
17 chronological history of my one year at the Board and I  
18 think that would explain my answer.

19 Q. If you could, sir, please?

20 A. I won't become too verbose, I hope  
21 not. About the end of October I personally decided that  
22 the situation was untenable as far as I was concerned and  
23 I started looking for other employment and I'd made a  
24 contact with a firm which indicated that they would be in  
25 a position to take me on staff about the middle of the  
26 following year and eventually I went to that firm as  
27 Director of Public Relations. Shortly after Christmas, I  
28 was interviewed by a P.R. consultant who was hired by the  
29 Board in respect to the situation existing. My work was  
30 described to him as unsatisfactory and I responded that





1 the situation was unsatisfactory as far as I was concerned.  
2 Then at Easter I was interviewed by Mr. Poole who was then  
3 the Executive Director and by Mr. MacDonald who has been  
4 described here before, and they both raised the same sub-  
5 ject, an inadequate situation between the Board and myself  
6 and we unanimously agreed that we should terminate our  
7 association and we agreed on the end of June. I did not  
8 tell them at that time that I had another appointment to  
9 go to for the simple reason that I thought that was my own  
10 business and secondly, that it was not a precise date as  
11 to when I would be joining this other firm that I was going  
12 to, and at that time, I wasn't ready -- now I could not  
13 tell you by whom because I am going back years to seven  
14 years of memory but I was invited by some -- either Mr. Poole  
15 or Mr. MacDonald -- or advised, let me put it that way, that  
16 my services were no longer needed at the principal officers  
17 meetings on Friday mornings.

18 Q. Tell me, sir, you say as early as  
19 October you had decided that that wasn't the place for you,  
20 and you should go elsewhere?

21 A. About the end of October, sir. I  
22 couldn't tell you precisely.

23 Q. You had been there, I take it, only  
24 some three months then; is that right?

25 A. Yes.

26 Q. Can you tell me some of the conditions  
27 that prevailed that brought you to that conclusion?

28 A. I felt completely frustrated, sir. I  
29 could in no way within my capability satisfy the chairman  
30 of the Board.



1 Q. Was there anything else other than  
2 this inability to satisfy the chairman?

3 A. Except my decision that I couldn't  
4 see the situation getting any better and I therefore  
5 decided that if I can get any employment any other place,  
6 there was no point in staying under those conditions and  
7 circumstances.

8 Q. Having said that, sir, was there  
9 anything with respect to your abilities or whether it  
10 affected your work?

11 A. I don't think it was myself and I  
12 would have to let someone else say that because we were  
13 involved very heavily in ordinary business of the depart-  
14 ment but also in preparing for the introduction of farmers  
15 under the legislation, and in that context, I was in charge  
16 of setting up a very comprehensive speakers bureau and we  
17 sent speakers of the Board all across Ontario to describe  
18 the conditions under the regulations of the Board and I  
19 was also involved in a very heavy publicity campaign at  
20 the same time. So I did conscientiously follow my job  
21 because the work had to be done.

22 Q. Even after October, sir?

23 A. Yes, sir.

24 Q. And you told us that it was unsatis-  
25 factory from your point of view because you couldn't  
26 satisfy the demands of the chairman. I think you said  
27 that it was also indicated to be unsatisfactory from the  
28 Board's point of view?

29 A. I am sorry, if I said the Board I  
30 mean from the chairman's point of view. I had no play back



1 to me either directly or indirectly from the other two  
2 members of the Board that I was either satisfactory or  
3 unsatisfactory.

4 Q. Was there any indication as what it  
5 was about your work that was unsatisfactory, sir?

6 A. No, it certainly befuddled me because  
7 I had -- my previous employer had given very satisfactory  
8 work for the seven and a-half years I had been there.

9 Q. There was nothing indicated to you  
10 specifically that you were doing wrong or failing to do?

11 A. Nothing directly, no, sir.

12 Q. And it was coincidental then that your  
13 time of going elsewhere was the same as the time you were  
14 expected to leave the Board; is that correct?

15 A. Yes, the agreement I had with the  
16 company I eventually joined, and they knew -- a personnel  
17 director of their company then was going to another firm  
18 and they didn't know precisely, they said it would be the  
19 middle of the year and it was just a coincidence that these  
20 two things seemed to coincide.

21 Q. It was suggested you leave then at  
22 the end of June and that is in fact what you did, I take  
23 it?

24 A. To be precise I can't recall whether  
25 I left the 15th of June or the 30th.

26 Q. So your term with the Board was  
27 restricted to the 15th of July to the middle of June of  
28 '66?

29 A. That is correct.

30 Q. What about the running of your own



1 department when you were there, sir, were you permitted  
2 to operate or was there any interference or can you tell  
3 us about that?

4 A. No, there was no direct interference.  
5 I think the Board, and I speak of the Board generally, I  
6 figure that it takes a person some months to become  
7 acquainted with the operation of a department and the  
8 functions of it.

9 Q. Now I don't want to take you down  
10 roads that we have covered before but have you anything  
11 to comment on the dining room or the militaristic attitudes  
12 or anything of that nature, sir?

13 A. There was segregated dining, sir, but  
14 it wasn't indicated as the sergeants' mess or the officers'  
15 mess, it was just two levels of dining. I was to be --  
16 I was under direct instructions to eat in the executive  
17 dining room because I was an executive. I was ticked off  
18 twice by Mr. Poole for sitting down in the managers' dining  
19 room because I wanted to discuss a subject with a depart-  
20 ment manager and I thought to save time we could do it over  
21 lunch.

22 Q. Anything else about that, sir?

23 A. No, except I didn't like it. I didn't  
24 think it was necessary.

25 Q. And was there anything else you wanted  
26 to bring before the Committee, sir?

27 A. In what respect, sir?

28 Q. Well, if you have anything about the  
29 morale in the work force or anything touching in the area  
30 of the efficiency of the administration that might be





1 helpful to the Committee.

2 A. This is what would be my interpretation.

3 Q. That is all I would ask of you, sir.

4 A. I didn't think the morale was good.

5 I could have been influenced by the fact that my morale  
6 was pretty low after I had been there a few months.

7 Q. And was there any change in that  
8 that you noticed in your tenure there, sir?

9 A. No, sir.

10 Q. And can you give the Committee any  
11 assistance as to the way in which the commissioners or the  
12 Board members got along amongst themselves?

13 A. My interpretation, sir, there was  
14 certainly a very definite conflict between Mr. Cauley and  
15 Mr. Legge.

16 Q. How was that demonstrated to you, sir?

17 A. I can't recall specific instances but  
18 there were numerous instances where a matter came up before  
19 the Board and they would take opposite polls on the matter  
20 and then it would be up to Dr. Steele who was put right  
21 in the middle to cast a deciding vote, either with  
22 Mr. Cauley or Mr. Legge.

23 Q. Members of the Committee will have a  
24 chance to ask you questions. Is there anything further  
25 you wish to bring before them before that?

26 A. I don't believe so, sir. They may  
27 bring something out in their own examination.

28 MR. DONNELLY: Thank you, Mr. Chairman.

29 THE CHAIRMAN: Mr. Wiseman?

30 MR. WISEMAN: I just wondered, had you



1 held many jobs before you came to the Board?

2 THE WITNESS: I was in newspaper work there  
3 before I joined Chrysler Canada and that was the only  
4 industrial position I had before I joined the Board as such.

5 MR. WISEMAN: And why did you join the  
6 Workmen's Compensation Board and leave your other job?  
7 Was it because of a challenge or wages?

8 THE WITNESS: I had a challenge, my wife  
9 wouldn't live in Windsor.

10 MR. WISEMAN: So this job didn't really  
11 offer a challenge to you then.

12 It wasn't because this job offered a  
13 particular challenge to you?

14 THE WITNESS: No, sir. I had a mutual  
15 friend -- I don't know whether they advertised for this  
16 position or not, but a mutual friend of Mr. Legge and  
17 myself knew that I was looking for another location and  
18 knew that the Board was looking for somebody for this  
19 position.

20 MR. WISEMAN: I wondered, you said you  
21 hadn't any previous experience along that line and I just  
22 wondered how you qualified for it.

23 THE WITNESS: I knew very little about the  
24 Workmen's Compensation Board prior to joining it. I had  
25 experience in industrial public relations though, sir.

26 MR. WISEMAN: Oh, in public relations?

27 THE WITNESS: Yes, I was in public relations  
28 at Chrysler for seven and a-half years.

29 MR. WISEMAN: I'm sorry.

30 Fine; that's all.



1 THE CHAIRMAN: Mr. Deans?

2 MR. DEANS: Thank you. Mr. Brown, do you  
3 have any idea at all how the photograph incident with  
4 Mr. Cauley occurred?

5 THE WITNESS: No, sir. That happened before  
6 I joined the Board.

7 MR. DEANS: Did it really?

8 THE WITNESS: I heard about it. I couldn't  
9 give you any evidence about it one way or another.

10 MR. DEANS: I kind of assumed that it  
11 happened in fact -- although the incident itself happened  
12 before you joined the Board but still the general problem  
13 arose during the time that you were there, in about  
14 September of 1965. You were with the Board at that time?

15 THE WITNESS: No, I believe this thing was  
16 pretty well -- the photographs, as I understand it, were  
17 taken before I joined the Board.

18 MR. DEANS: The photographs were but the  
19 affidavits and the Court actions and the like.

20 THE WITNESS: I didn't know anything about  
21 that. I was possibly too involved in getting a department  
22 going and it was handled by other people. I was not  
23 involved.

24 MR. DEANS: That's fine. I was curious about  
25 that because your tenure seemed to overlap the problem and  
26 I wondered.

27 You came to the Board not a long time after  
28 Mr. Legge?

29 THE WITNESS: I didn't know that until I  
30 heard evidence here this week. I knew he was fairly new at



1 the Board but I didn't know when he had joined the Board,  
2 sir.

3 MR. DEANS: Were you accustomed to attending  
4 Board meetings at all; were the other members of the Board  
5 present during your tenure there?

6 THE WITNESS: Oh yes, sir. You mean the  
7 senior officers.

8 MR. DEANS: The senior officers.

9 THE WITNESS: Yes, there would be ten or  
10 twelve at the Board meetings.

11 MR. DEANS: There was indication by other  
12 of the witnesses that Mr. Legge -- I don't know how you  
13 would put it -- shutting up Mr. Decker -- I suppose this  
14 is as clear a way as I can put it -- did you notice any  
15 of that kind of atmosphere at the meetings that you  
16 attended?

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Brown,

1 THE WITNESS: Speaking from my own experience  
2 I shut up voluntarily because I found out that I wasn't  
3 coming out with the right answers and I did it mainly  
4 to save myself from any further embarrassment with any  
5 of the other members of the Board. I didn't think I had  
6 to take that type of attitude from anybody.

7 MR. DEANS: Did you ever discuss it with  
8 any other members of the Board?

9 THE WITNESS: Oh, I think that you would  
10 have to say that it was discussed in a sort of informal  
11 chit-chat situation. In a situation like that I don't  
12 think it would be suppressed.

13 THE CHAIRMAN: Mr. Newman?

14 MR. NEWMAN: Just very quickly I would  
15 like to ask Mr. Brown, you say you are a mutual friend  
16 of Mr. Legge. Who hired you, were you called before  
17 the Board?

18 THE WITNESS: Yes, I was interviewed before  
19 the Board on two separate occasions in June of 1965. I  
20 was hired actually by a telephone call and a following  
21 letter from Mr. Poole.

22 MR. NEWMAN: You and Mr. Legge just didn't  
23 see eye to eye on policy; is this the basic problem you  
24 had over this year's period?

25 THE WITNESS: Not so much a departmental  
26 policy, sir, as policy as to how soon from the time you  
27 are requested that you should have an answer. That seemed  
28 to be the crux of the whole thing.

29 MR. NEWMAN: I would guess that he would  
30 want answers and he didn't give you enough time to prepare



1 | them?

2 | THE WITNESS: I didn't think there was  
3 | enough time considering the other responsibilities I had  
4 | on my shoulders at that time.

5 | MR. NEWMAN: Thank you.

6 | THE CHAIRMAN: Mr. Allan?

7 | MR. ALLAN: Well, Mr. Brown, were you a bit  
8 | surprised that you had as much to do with Mr. Legge as  
9 | you did, that is, you were -- Mr. Poole was the General  
10 | Manager of the Board, wasn't he, at that time?

11 | THE WITNESS: His position at that time,  
12 | sir, was the Executive Director. I can stand corrected.

13 | MR. ALLAN: Well I guess you're right and  
14 | I'm wrong because I thought it was after his change to  
15 | General Manager -- it would be the same position, wouldn't  
16 | it?

17 | THE WITNESS: Yes.

18 | MR. ALLAN: Did you not expect that the  
19 | workings of your department and that you would be in  
20 | touch with Mr. Poole a great deal more than you would be  
21 | with Mr. Legge?

22 | THE WITNESS: I was in touch with Mr. Poole  
23 | in respect of such functions as the mail strike, although  
24 | Mr. Legge did take a very personal part in that also.  
25 | But my main association with Mr. Legge was in the pre-  
26 | paration of speech material and the discussion of same.

27 | MR. ALLAN: Not in administration?

28 | THE WITNESS: No, it came indirectly to me  
29 | in that there was something possibly ---

30 | MR. ALLAN: I have been wondering if there



1 were too many bosses there to put it very plainly?

2 THE WITNESS: We are speaking of the time  
3 I was there?

4 MR. ALLAN: Three members of the Board and  
5 General Manager?

6 THE WITNESS: I think when you get right  
7 down to the basic there was only one boss there and that  
8 was Mr. Legge, regardless of who you reported to.

9 MR. ALLAN: Well I think I know what you  
10 mean anyway. You are very frank and outright.

11 THE WITNESS: I hoped I could be more  
12 explicit.

13 MR. ALLAN: I wonder if the General Manager  
14 or as it was then, the Executive Director, if his  
15 responsibilities were interfered with too much by the  
16 Board?

17 THE WITNESS: Mr. Poole got his rough  
18 sessions the odd time when he appeared at the senior  
19 officers meetings. Not nearly as many as I did, but  
20 Mr. Poole knew more about the operations of the Board  
21 than I did.

22 MR. ALLAN: Yes, he had been there a long  
23 time?

24 THE WITNESS: Yes.

25 MR. ALLAN: That was all I had.

26 THE CHAIRMAN: Mr. Lawlor, do you have a  
27 question?

28 MR. LAWLOR: Mr. Legge was just about as  
29 green as you were, though, at the time you first started,  
30 he had only started a short time previously?



1 THE WITNESS: I didn't know that, sir.

2 MR. LAWLOR: But he was in a learning  
3 process too. These Friday morning meetings, would other  
4 senior staff members be present in the room along with  
5 yourself?

6 THE WITNESS: Oh, yes, all department heads  
7 and the three members of the Board if they were in the  
8 city.

9 MR. LAWLOR: And would other members, would  
10 you be in the presence while other members were being  
11 interrogated in this fashion?

12 THE WITNESS: Yes, sir. There was no  
13 closed session as far as interrogation was concerned.

14 MR. LAWLOR: Were you ever -- was your  
15 department ever inspected -- we have heard about inspec-  
16 tions taking place in various departments by Mr. Legge?

17 THE WITNESS: In a direct way, sir, the  
18 Chairman's washroom was in my department.

19 MR. LAWLOR: Is this the new one or the  
20 old one? You know there was a new one?

21 THE WITNESS: I don't know anything about  
22 more than one washroom, sir.

23 MR. LAWLOR: All right. They changed that  
24 after you left, I suspect.

25 You haven't answered my question quite yet,  
26 the business of were you ever inspected.

27 THE WITNESS: By the Chairman, sir?

28 MR. LAWLOR: Yes.

29 THE WITNESS: He would come in the odd time  
30 possibly to ask about the production of something and how  
it was proceeding.





Brown,

1 MR. LAWLOR: Did he interrogate you?

2 THE WITNESS: We didn't have anything if  
3 you are referring to a formal inspection of somebody  
4 coming around. It would just be in the general routine  
5 of him taking them through the building and showing where  
6 our department was.

7 MR. LAWLOR: He wouldn't question junior  
8 staff, secretaries and others as to the operation?

9 THE WITNESS: Not to my knowledge, sir.

10 MR. LAWLOR: Thank you.

11 THE CHAIRMAN: Counsel, have you something  
12 further yourself?

13 MR. DONNELLY: No thanks.

14 THE CHAIRMAN: Counsel for the other  
15 witnesses?

16 MR. LAPKIN: No questions.

17 THE CHAIRMAN: Thank you, Mr. Brown. Thank  
18 you for assisting the Committee.

19 Have you something?

20 MR. BOWMAN: Mr. Chairman, may I take it  
21 the witness is now excused?

22 THE CHAIRMAN: Yes, he is.

23 We are adjourned until 8:00 p.m. this  
24 evening.

25 --- Upon recessing at 6:00 p.m.  
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1 --- Upon resuming at 8:20 p.m.

2 THE CHAIRMAN: We will call our meeting  
3 to order. Counsel, are you ready with your next  
4 witness?

5 MR. DONNELLY: I am. Just for a moment  
6 before I do that, Mr. Chairman, Mr. Lawlor asked for  
7 a chart of the present and former structure at the  
8 Board and I have been provided with this by the Board.  
9 Perhaps I might file it.

10 ---EXHIBIT NO. 71: Chart of present and former structure  
11 at the Workmen's Compensation Board.

12 MR. DONNELLY: Secondly, earlier in our  
13 proceedings the request was made to Hickling and Johnston  
14 for a copy of their account and that has been furnished  
15 to me today together with a letter, and the letter says  
16 in part that the transcript on Page 513 is in error  
17 and it quotes their account as being \$69,000.00 where  
18 I think the estimate was \$6,000.00 to \$9,000, and they  
19 ask that the record might be corrected in that respect.

20 MR. DEANS: The record should show that  
21 it was closer to nine than six.

22 THE CHAIRMAN: (Swears the witness).

23 JAMES MICHAEL LARKIN, sworn:

24 EXAMINATION BY MR. DONNELLY:

25 Q. Your full name, sir?

26 A. James Michael Larkin.

27 Q. And you appear without counsel  
28 and as far as I can see without notes, so that you  
29 don't intend making any formal statement?

30 A. No, I was asked to be here and I



1 have no statement.

2 Q. Sir, according to my information  
3 you were with the Board for 11 years and left in April  
4 of 1967; is that correct?

5 A. Yes, sir.

6 Q. And you had a service record during  
7 the war, did you?

8 A. Yes.

9 Q. And were discharged as a casualty;  
10 is that so?

11 A. That's right.

12 Q. And before coming to the Board  
13 you were with the D.V.A. for ten years in some type  
14 of rehabilitation counselling, were you?

15 A. Psychiatric rehabilitation  
16 counselling.

17 Q. And your position at the Board was  
18 what, sir?

19 A. I started as a rehabilitation  
20 officer and was given I guess three promotions, and  
21 I was Assistant Chief Rehabilitation Officer.

22 Q. When you left?

23 A. Yes.

24 Q. Can you tell us when you left?

25 A. I left and went to go to work for  
26 the regional office of the Department of Manpower and  
27 immigration. Q. Was there any connection between  
28 your change of employment and the working conditions at the  
29 Board?

30 A. No, sir.



3/3 1 Q. What about the opportunity that  
2 was presented to you with the National ---

3 A. No, I was offered as a matter of  
4 fact a promotion or at least it had been discussed with  
5 me at the Board before I got to the Board and then there  
6 was no problem. But the ---

7 Q. Excuse me, did I interrupt?

8 A. You were saying about the other.

9 Q. The other opportunity, how did it  
10 compare with the position you ---

11 A. It was a much more responsible  
12 job and there was considerable difference in pay.

13 Q. And what about your relations at  
14 the Board with Mr. Legge and the working conditions?

15 A. I had no business dealings with  
16 Mr. Legge. I only met him casually, and that sort of  
17 thing, and I had no business dealings with him.

18 Q. How about any citations for work  
19 or anything of that nature, sir?

20 A. Oh, I received three or four  
21 letters from him citing me for good work.

22 Q. And we have been told about changes  
23 in the Board, and can you tell us how that related to  
24 the position that you occupied or how it was related  
25 to your department?

26 A. Well, I was at the rehabilitation  
27 Centre a good part of the time and during the time that  
28 I was there -- I don't recall any major changes down  
29 there. As I recall it most of the changes up until the  
30 time I was there was in the claims department which





18/4

1 | didn't affect the department I was in.

2 |                   Q.     Was there any staff development in  
3 | your program, sir, or anything you can tell us about  
4 | that?

5 |                   A.     Well, I was involved in a staff  
6 | development program over a period of three or four years  
7 | while I was at the Board. The idea was to raise the  
8 | technical level of the rehabilitation.

9 |                   Q.     How was that received by the  
10 | Chairman, sir?

11 |                   A.     He supported it and he cited me  
12 | for it.

13 |                   Q.     And when it came to the changing of  
14 | jobs, did you seek the new job or were you sought out?

15 |                   A.     With the Federal Government?

16 |                   Q.     Yes.

17 |                   A.     I had discussed it with some senior  
18 | people in the Federal Government about a year before I  
19 | left and came over here about a year.

20 |                   Q.     I don't want any detail on this,  
21 | sir, but generally was it a financial benefit for you  
22 | to move or to change jobs or not?

23 |                   A.     I would say it was not so much  
24 | financial as if you will permit me to say so, philosophical  
25 | in a sense that when Mr. Pearson announced the establish-  
26 | ment of the Department of Manpower and Immigration,  
27 | along with it were certain positions that were established  
28 | for rehabilitation in the various regions, five regions,  
29 | and my understanding was that the Federal Government was  
30 | considering moving towards the establishment of a



1 universal rehabilitation program and I wanted to be,  
2 if you will, a founder and participate in that and that  
3 was my major reason for leaving.

4 MR. DONNELLY: Some of the Committee  
5 members may have questions, sir.

6 THE CHAIRMAN: Mr. Deans?

7 MR. DEANS: Mr. Larkin, when did you say  
8 you commenced employment with the Board?

9 THE WITNESS: I think it was in March, '56.

10 MR. DEANS: Did you notice any significant  
11 changes -- were you always with the rehabilitation branch?

12 THE WITNESS: Yes, sir, I have been in  
13 rehabilitation now to date 27 years continually.

14 MR. DEANS: I would like to discuss it  
15 with you at some point.

16 THE WITNESS: I would be very glad to.

17 MR. DEANS: Did you notice any marked  
18 changes in the rehabilitation program of the Board during  
19 your tenure there?

20 THE WITNESS: Yes, during my 11 years  
21 there were some very major developments and I seemed to  
22 have been lucky in that way in moving from the Federal,  
23 and again here I knew some people at the Board and I  
24 had discussed changes because the D.V.A., having done  
25 the major rehabilitation job in the post war period  
26 was beginning to, say, peter out and the Board appeared  
27 to me to be the place where there was a real challenge  
28 and I actually -- at the time I was there there was a  
29 major expansion developing in rehabilitation services  
30 and I like to feel that I participated in it.



1 MR. DEANS: This perhaps doesn't bear  
2 that heavily on the things that we have been hearing  
3 up until now, but when you talk of rehabilitation, are  
4 you talking about physical rehabilitation as opposed to  
5 rehabilitation in the work sense; in other words, in  
6 the sense of retraining as a result of a physical  
7 disability?

8 THE WITNESS: My concept of rehabilitation  
9 rehabilitation is continuing from the time your client,  
10 and in this case in the Workmen's Compensation case, the  
11 injured workman. From the day he is injured until the  
12 day he is back at work, it is a continuing process.

13 MR. DEANS: Do you see, now that you have  
14 gone to Manpower, looking back over your history with  
15 the Board and your more recent history with the Canada  
16 Manpower, do you see any way that we might integrate --  
17 that word I use loosely -- but at least integrate with  
18 some of the services that are available in order that  
19 we don't end up with a duplication as we may well now  
20 have through Manpower with their retraining program and  
21 the Compensation Board with its rehabilitation program?

22 THE WITNESS: Well, as I mentioned to  
23 counsel that this was my reason for actually having gone  
24 to Manpower because I had felt that this was the move  
25 and actually while I was with Manpower we were in the  
26 early stages shortly after our arrival, we were  
27 discussing this very thing really, is the idea of  
28 developing a sort of universal rehabilitation service  
29 right across the country.

30 MR. DEANS: I suspect that I might share



1 your views. I would be interested sort of -- I might  
2 get cut off -- I would be interested at some point  
3 without going into it here if you would let us know  
4 just exactly what it is you have in mind, because I  
5 hate to see a duplication and I think it may well be  
6 we could afford not to have it.

7 Let me ask you a question directly related  
8 to the hearings. You were at the Board during the time  
9 of the much publicized photography incident. Do you  
10 know anything of -- anything at all about the ordering  
11 of the photographs and the subsequent problems that  
12 arose at the Board as a result of Mr. Cauley and the  
13 Board?

14 THE WITNESS: Absolutely nothing. This  
15 is my first -- as a matter of fact it wasn't until today  
16 that I got wind of the timing.

17 MR. DEANS: I suspected that you didn't  
18 but I had to ask. Are you familiar with any of the  
19 operations in regard to the relationship between Mr.  
20 Cauley and Mr. Legge, or Mr. Legge and the other members  
21 of the Board, Mr. Cauley and the other persons on the  
22 Board, do you have any knowledge of that that would  
23 be useful to this Committee?

24 THE WITNESS: I only attended one Board  
25 meeting at the request of the department head, and that  
26 was to deal with a problem that I knew something about  
27 and I was there for 15 minutes and that was it.

28 MR. DEANS: Thank you.

29 THE CHAIRMAN: Are there any other  
30 questions from Committee members?





1 I doubt if counsel for any of the  
2 witnesses will have any questions.

3 Mr. Lawlor?

4 MR. LAWLOR: One question: focus your  
5 mind if you can -- if you can't say so -- on the period  
6 two years before you left, somewhere around April or  
7 June -- it doesn't matter -- 1965, from that time on,  
8 if you can do this, until the time you left, were there  
9 any noticeable or marked changes in rehabilitation, in  
10 the structuring of the rehabilitation?

11 THE WITNESS: Are you referring, sir, to  
12 the department, the rehabilitation department?

13 MR. LAWLOR: Yes.

14 THE WITNESS: No, sir, other than the  
15 principal officer who would be responsible, if I remember  
16 correctly, for the claims and the rehabilitation  
17 departments, but this didn't make any change at all in  
18 my responsibilities or duties.

19 MR. LAWLOR: That is all.

20 THE CHAIRMAN: Thank you, Mr. Larkin.

21 I know the Committee would just relish  
22 having a couple of hours with you. Perhaps it can be  
23 arranged at some other time.

24 THE WITNESS: Sir, 965-6241, I live on  
25 the fifth floor of the Hepburn Block and I am available  
26 any time.

27 MR. DEANS: Mr. Larkin, recognizing you  
28 may not have two hours, if you have any views that this  
29 Committee would like to look at on the matter of  
30 rehabilitation, I would appreciate having the time with



1 you.

2 THE WITNESS: Honestly, if I may have a  
3 minute, I am very interested in the subject and I am  
4 still in very good health and I hope I have a few more  
5 working years, and I have many years of experience  
6 and I would like to share it with you very much.

7 THE CHAIRMAN: Thank you very much, Mr.  
8 Larkin.

9 Dr. Johnston, please.

10 (Swears the witness).

11 DR. JOHN LEONARD JOHNSTON, sworn:

12 EXAMINATION BY MR. DONNELLY:

13 Q. Your full name, Doctor?

14 A. John Leonard Johnston.

15 Q. You appear without counsel and  
16 apparently without notes. Do you wish to make a  
17 statement, Doctor?

18 A. As I am under subpoena, sir, I  
19 prefer the question and answer approach.

20 Q. Doctor, my information is that you  
21 are a medical doctor and that you started with the  
22 Board in June of 1952 and stayed until the end of  
23 December of 1953 and you then went to the C.N.R. for  
24 about a year; is that correct?

25 A. That is correct.

26 Q. And on February 1st, 1955 you came  
27 back to the Board by invitation and with the Board  
28 approval as Assistant Chief Medical Officer; is that  
29 correct?

30 A. That is correct. I would like to



1 correct onething, sir, I am a surgeon, I am not a  
2 physician.

3 Q. I see. Pardon me, please. I  
4 suppose one doesn't include the other.

5 And you came back then as Assistant --  
6 Assistant Chief Medical Officer?

7 A. That is correct.

8 Q. And you were appointed as the  
9 Chief Medical Officer when, sir?

10 A. The actual appointment as I recall,  
11 sir, was in May of 1956, I assumed the duties on the  
12 1st of July, 1956.

13 Q. And you remained in that capacity  
14 for how long, sir?

15 A. Until the 16th day of December,  
16 1965.

17 Q. Now as I recall in speaking to  
18 you there were two principal reasons for leaving; is  
19 that correct?

20 A. That is correct.

21 Q. Could you tell the Committee about  
22 them, please?

23 A. Well, my first reason that I would  
24 state was that in the late spring of 1965 I found that  
25 an in depth study of my branch was underway without  
26 my knowledge; I could in no way determine the nature of  
27 this in depth study of a medical branch; I knew who  
28 the personnel were, one of them being a member of my  
29 staff who had been seconded; it was a very, very short  
30 experience and it was my personal belief that man himself



1 would not be equipped to carry out an in depth study  
2 of the branch. I was unable to find out precisely what  
3 this was as he had indicated that he had undertaken  
4 this study with other lay members of the Board having  
5 been sworn into the position. I never did find out  
6 the results of that in depth study to be quite precise  
7 with you.

8 My second reason was that in approximately  
9 July, I believe, there was a job posted ---

10 Q. Of 1965?

11 A. Of 1965, that is correct. There  
12 was a job posting for Medical Director, I applied, along  
13 with I think four others, all members of the Board's  
14 staff -- these were not outsiders that had applied to  
15 my knowledge. Two of the applicants, myself and one  
16 other were men of long experience in compensation and  
17 the others were of much shorter duration and for  
18 reasons that I am not party to I was not one of those  
19 selected. Rather it was a man that I had undertaken to  
20 hire and had taken <sup>one year of</sup> representations to the former Board  
21 to get him on <sup>the</sup> staff and he had been there some nine  
22 months and I found him my superior and I just found  
23 it an intolerable situation and I could no longer stay  
24 and work under that so I undertook to secure for myself  
25 another field of endeavour which I did do and I left  
26 on the 16th day of December.





1                   Q.     You went on to some position as  
2 Medical Director with OMSIP, was it, sir?

3                   A.     Yes, sir. I went from the Compens-  
4 sation Board on the day following on the 17th day of  
5 December to be the Medical Director of the OMSIP Plan.

6                   Q.     Now, prior to Mr. Legge's appointment  
7 as Chairman can you tell us about the rapport you had  
8 with he and Cauley, sir?

9                   A.     Yes, this was excellent. The entire  
10 function at this time was facile, it was easy as a very  
11 senior department head to approach Dr. Steele, this was  
12 my approach to the three Commissioners, but at no time,  
13 sir, did I find it difficult to approach either Mr. Cauley  
14 or Mr. Sparrow at that time and certainly to get present-  
15 ations of the Board on either claims policy or a claims  
16 situation or a matter of policy, there was no problem  
17 on this at all, sir.

18                  Q.     What about your relation with the  
19 medical profession at that time, Doctor, the Board's  
20 relation?

21                  A.     Sir, I suppose -- I have to go --  
22 this is hearsay to me, but the rapport of the chief  
23 medical officer and his entire staff at that time was  
24 very, very high with the medical profession. They  
25 respected us and they believed that they were being dealt  
26 with most fairly and in an honest, straight-forward  
27 manner.

28                  Q.     Do you have any comment as to the  
29 conditions or any change in the conditions when Mr. Legge  
30 was appointed, sir?



A. This can't relate to your previous question, sir, because I'm not in a position to really know and in the period of February until I left I can't say that outside relations deteriorated. This was inside, sir. With the institution of the in depth study of the branch, and there were some 30 doctors at that time all associated with the administrative medical office, that is the downtown or the 90 Harbour Street branch, they were confused, they were upset and I must say that I was the leader among them, I was the most upset and the most distressed, after some nine years of being the Chief Medical Officer that an in depth study could be carried out in a branch that functioned as this one did without the knowledge of the incumbent at the head of that branch, this is what happened, sir. There was unrest in my staff, there was uncertainty in my staff and I am quite sure that the Committee will appreciate that many of these men had not gone in time as far as I had in that they had vested interests in their pension, they were professional people, they felt they were captive and there was something going on and it was a great change, we were not aware as professional people what these changes or what these studies meant.

Q. Do I understand it correctly, Doctor, you were the first of the senior people to leave the Board at this time?

A. That is my impression, sir, that I was the first of the senior officers to leave the Compensation Board.

Q. Now is there anything further that



1 you wanted to volunteer to the Committee, Doctor? I  
2 suspect the Committee to also have questions.

3 A. No, I haven't anything to volunteer,  
4 sir. I am quite willing to answer the questions of the  
5 Committee.

6 MR. DONNELLY: Thank you.

7 Thank you, Mr. Chairman.

8 THE CHAIRMAN: Mr. Deans?

9 MR. DEANS: Dr. Johnston, you left the  
10 Board in the year -- I keep coming back to this, but it  
11 is becoming perhaps important and I want to be clear on  
12 it -- you left the Board in the year of the pictures,  
13 something like the Chinese Year of the Cat, you know, you  
14 begin to put things together in / <sup>that</sup> sense. Are you familiar  
15 at all with the circumstances surrounding that?

16 THE WITNESS: No, I am not, sir.

17 MR. DEANS: You were not familiar with the  
18 incident at all during the time you were at the Board?

19 THE WITNESS: Honestly, sir, I didn't.

20 MR. DEANS: No, I believe you. You needn't  
21 say that, I believe you.

22 Did you notice any change other than the  
23 change in your own department? Were your relationships  
24 or your relations with the senior Board members friendly?

25 THE WITNESS: With Mr. Cauley and Dr.  
26 Steele, yes, sir, they were and this was unchanged,  
27 although I volunteer that they were unable to answer my  
28 inquiries as to what went on.

29 MR. DEANS: Did you ever approach the  
30 Board in total and ask for some justification for the



1 actions that were being taken?

2 THE WITNESS: No, I didn't, sir, I asked  
3 through the channels that were established for me at that  
4 time through Dr. Steele, the Commissioner, what was going  
5 on.

6 MR. DEANS: Could I ask you to the best of  
7 your recollection, can you recall whether either one of  
8 them was able to explain to you or give you any kind of  
9 an explanation as to how the investigation had been  
10 authorized?

11 THE WITNESS: No, sir.

12 MR. DEANS: Do you know if in fact it was  
13 a decision of the Board?

14 THE WITNESS: No, sir. That could only  
15 be in the Board record. I would not know, sir.

16 MR. DEANS: Was it conducted only by people  
17 in the employ of the Board?

18 THE WITNESS: Yes, sir.

19 MR. DEANS: As you mentioned, people from  
20 your own staff?

21 THE WITNESS: One was from my own staff and  
22 one is in this room at this time, sir.

23 MR. DEANS: I was going to ask you, the  
24 person on the staff who conducted the survey, he wasn't  
25 one of the four who applied for the position, was he?

26 THE WITNESS: No, he was not, sir.

27 MR. DEANS: Who was the other person?

28 THE WITNESS: Mr. Hallam who is in the  
29 room at this time, sir, the other Doctor I mentioned is  
30 Dr. Teiman who is no longer with the Compensation Board.





1 MR. DEANS: Do you have any direct knowledge  
2 of things like tape recordings of messages to the Board?

3 THE WITNESS: In my time, sir, this was  
4 not -- I know nothing, sir.

5 MR. DEANS: Did you feel that the changes  
6 that were taking place starting in the year 1965 that  
7 there was sufficient discussion between the Board and  
8 the employees of the Board as to the changes, the purpose  
9 for the changes and the implications of the changes?

10 THE WITNESS: No, I did not believe that  
11 there had been sufficient discussion. The structure  
12 that I was directing is a very complex one. This takes  
13 a lot of study, it is a very difficult thing to under-  
14 stand, the controls are placed at the hands of the  
15 Workmen's Compensation Board and the medical officers  
16 in particular under the control of the treatment and  
17 the treatment that an injured workman may receive, this  
18 is most complex and I simply say to you, sir, that I  
19 believe that a study of an operation that is as  
20 complex and was as big as that one was would require  
21 intense study and by people who were very familiar with  
22 this program. I don't stand in the way of change, I  
23 thought that sudden change or unknown changes or the  
24 fear of the future were the things that got me down,  
25 sir, no question about this.

26 MR. DEANS: Are you familiar with the  
27 changes that took place in the appeals structure?

28 THE WITNESS: They were just being  
29 instituted, Mr. Deans, as I left. I think I can only  
30 say this occurred, I believe, in the fall. There were



1 changes going on in the appeals structure which, I might  
2 say, sir, to us as medical officers, this did not greatly  
3 change our role. We were able to express an opinion on  
4 the medical situation and then the tribunals would handle  
5 that opinion from there on.

6 MR. DEANS: So that you had no particular stake  
7 in the appeals structure one way or the other?

8 THE WITNESS: No, sir, I had not. I had  
9 gotten along extremely well in the years I had worked  
10 with the structure in the appeals structure that existed  
11 and I believe that it was fair.

12 MR. DEANS: But the change didn't upset  
13 you to the point that you would rebut it?

14 THE WITNESS: No, sir, not in the system  
15 as I understood it. Now this is a limited understanding,  
16 mind you, it is very short.

17 MR. DEANS: Now I don't know whether you  
18 are still familiar and if you are not familiar you don't  
19 have to answer this question, but as a result of the  
20 investigations that took place into the medical end, in  
21 your end, your particular end, were there any significant  
22 changes to your knowledge?

23 THE WITNESS: Not before I left, sir. I  
24 remained as the chief medical officer until the day I  
25 departed.

26 MR. DEANS: But the studies were completed  
27 at the time you left the Board?

28 THE WITNESS: I don't know.

29 MR. DEANS: You don't know?

30 THE WITNESS: I don't know whether they did



1 or not.

2 MR. DEANS: I want to ask you something  
3 that you needn't answer if you don't want to, but you  
4 said that the relationship between the physicians in  
5 the province and the Board up until the time that you  
6 left was friendly and was generally good?

7 THE WITNESS: Yes, sir. I repeat and I  
8 believe honestly that this was an excellent relationship.

9 MR. DEANS: Now you are still with OHSIP  
10 are you?

11 THE WITNESS: No, sir, I have retired.

12 MR. DEANS: Have you been retired for long?

13 THE WITNESS: Yes, sir, I retired the  
14 1st day of January, 1971. I am working again.

15 MR. DEANS: You are working again?

16 THE WITNESS: Yes.

17 MR. DEANS: The question I am going to ask  
18 you now you may have absolutely no knowledge of, but  
19 as a professional dealing with physicians do you believe  
20 that the relationship that existed in 1965 still exists,  
21 the relationship between the Board and the physicians?  
22 Do you have any knowledge of whether it exists or not?

23 THE WITNESS: I am going to have to look  
24 at counsel on this, sir, this is hearsay to me. From my  
25 colleagues as I meet them today and as I have met them  
26 the past six years and I would have to say that the  
27 rapport that I appreciated as the Chief Medical Officer  
28 in their eyes is not there today.

29 MR. DEANS: That is simply by virtue of  
30 statements made to you?



1 THE WITNESS: Yes, sir. I still think,  
2 I believe -- and I believe I am highly reputed in my  
3 profession.

4 MR. DEANS: You said up until the time you  
5 left and I just wondered ---

6 THE WITNESS: That's what I say I believe  
7 and in fact that I know what you asked me is only a feed-  
8 back I obtained in an entirely different situation.

9 MR. DEANS: Would I be correct in assuming  
10 that in fact any discussion of Mr. Legge's abilities  
11 would really be unfair since you didn't have any close  
12 working relationship for a period of time?

13 THE WITNESS: I worked closely with  
14 this man, sir, from the period of February.

15 MR. DEANS: Let's hear from you then.  
16 There have been a lot of things said and I want to ask  
17 you, did you feel comfortable working with him?

18 THE WITNESS: No, sir.

19 MR. DEANS: Why? I suppose that is as  
20 simple a way to ask as any.

21 THE WITNESS: I think we are now starting  
22 around again, sir, that what I would have to say is I  
23 found it a very difficult situation. I happened to be  
24 one of the very few men who knew the Chairman prior to  
25 his coming to the Board. I had been associated with  
26 Mr. Legge in the militia of this region for a fairly  
27 long period of time. When he came I was willing to co-  
28 operate totally with the new Chairman; I believe the  
29 new Chairman deserved this, but these changes occurred  
30 and I must say that I still can't understand my own





1 feelings when I found out an in depth study was going on  
2 of a branch that the prior Commission had felt me  
3 responsible to operate for nine years. I just didn't  
4 understand this.

5 MR. DEANS: So that in fact your feeling  
6 toward Mr. Legge was coloured substantially by the fact  
7 that this study was taking place without your knowledge?

8 THE WITNESS: Yes.

9 MR. DEANS: And you were more or less  
10 blaming him for that having occurred?

11 THE WITNESS: Yes, sir, and at a much  
12 later date he indicated that this had been in error and  
13 had apologized to me.

14 MR. DEANS: You are one of the few people  
15 I suspect that that has ever occurred to.

16 THE WITNESS: This was done in front of  
17 witnesses, sir, in his own office and I have no hesitation  
18 in telling you.

19 MR. DEANS: Did you feel that any other  
20 heads of departments similar to yourself felt likewise,  
21 felt that they were not in the game, not a part of the  
22 team?

23 THE WITNESS: Yes, sir, this I believe was  
24 a feeling of my colleagues in my echelon, operation,  
25 during the period that I was associated there. There  
26 was change occurring and it was an unknown.

27 MR. DEANS: Do you have any particular  
28 incidence that would point to that being fact rather  
29 than just simply ---

30 THE WITNESS: Sir, I have to answer that



1 it was my personal observation.

2 MR. DEANS: Thank you very much.

3 THE CHAIRMAN: Mr. Allan?

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1 MR. ALLAN: Mr. Chairman, I am not going  
2 to ask the witness about the pictures. They are getting  
3 threadbare.

4 MR. DEANS: He says he doesn't know.

5 MR. ALLAN: I am thoroughly interested with  
6 respect to what you said. I think I understand it correctly,  
7 when I feel you were the Chief Medical Officer at the Board.

8 THE WITNESS: Yes, sir, I was.

9 MR. ALLAN: And then there was an in depth  
10 study?

11 THE WITNESS: Yes, sir.

12 MR. ALLAN: And then there was an application  
13 for what, that you applied as the Chief Medical ---

14 THE WITNESS: This was a new position being  
15 created, sir.

16 MR. ALLAN: What was it?

17 THE WITNESS: I believe the title is medical  
18 director now, sir.

19 MR. ALLAN: And there is such a position  
20 still in existence?

21 THE WITNESS: That is correct, sir.

22 MR. ALLAN: What is the difference between  
23 a medical director and a chief medical officer?

24 THE WITNESS: I can't define it, sir. I  
25 wasn't there very long after that creation.

26 MR. ALLAN: You don't suspect for a minute  
27 that this was done to sort of ease you out?

28 THE WITNESS: May I say it eased me out,  
29 sir.

30 MR. ALLAN: You don't care to comment on the



1 difference in the duties of the chief medical officer?

2 THE WITNESS: Sir, as I was never incumbent  
3 as a medical director, I did not hold that job ---

4 MR. ALLAN: But you knew what you were  
5 planning for ---

6 THE WITNESS: Yes.

7 MR. ALLAN: I guess you're not going to  
8 comment?

9 THE WITNESS: I am not this way because I  
10 didn't get a job, sir, this is not it, but in this operation  
11 with experience which two of us have had which I believe  
12 amounted to over 24 years in this field of compensation,  
13 of medicine, and the other individual had nine months, this  
14 is what I found intolerable; in particular when it was a  
15 man that I had received a call from a year before he was  
16 to be discharged from the Armed Forces, would there be a  
17 job, and it took one year of indication to the Board that  
18 this man would be available, could he join our staff. He  
19 joined the staff, sir, one year later, and in nine months  
20 he became a medical director. I have no comment other than  
21 I found this a situation that I was no longer going to  
22 stay at work.

23 MR. ALLAN: In connection with the in  
24 depth study, I take it that you feel this was being under-  
25 taken by a staff who really weren't qualified to undertake  
26 such a task?

27 THE WITNESS: Well, yes, I would feel that,  
28 in particular the medical officer who was brand new and  
29 feeling his way around the department and learning, to  
30 undertake a study without the assistance--I mean I don't  
stand in the way of change and I think I would be willing  
to co-operate





1 with an in depth study because I can see that change is  
2 necessary and we can make progress but to be totally out  
3 and not even know what it was about, I found it to be very  
4 disturbing, sir.

5 MR. ALLAN: What is your nationality, Doctor?

6 THE WITNESS: Need you ask, sir? I wear the  
7 kilt.

8 MR. ALLAN: I thought you might. They have  
9 firm opimions, don't they?

10 THE WITNESS: I do indeed, sir.

11 MR. ALLAN: I had one for a father and I  
12 have one for a wife.

13 Thank you very much.

14 THE CHAIRMAN: Mr. Miller?

15 MR. MILLER: I only have<sup>one</sup>/question, Dr. Johnston.

16 If I heard your testimony correctly, you mentioned relations  
17 between the medical staff and the medical community were  
18 excellent in your time?

19 THE WITNESS: Yes, sir.

20 MR. MILLER: You left me wondering if by  
21 this, you are extending it to say perhaps in your opinion  
22 they weren't now?

23 THE WITNESS: I can only say this on hearsay,  
24 sir.

25 MR. MILLER: You are a member of the medical  
26 community?

27 THE WITNESS: I answered that to Mr. Allan  
28 on the feedback to his exchange.

29 MR. MILLER: I thought you meant internal  
30 relations between the manager and medical staff within



1 the organization?

2 THE WITNESS: No, I am talking about outside,  
3 sir. That is the only place. I have no recourse no  
4 communication.

5 the  
6 MR. MILLER: That is/ only questions.

7 THE CHAIRMAN: Mr. Lawlor?

8 MR. LAWLOR: There are a couple of things  
9 that interest me, one which actually intrigues me, about  
10 the -- you say that someone was sworn, that the man who  
11 made this investigation was sworn by, I take it, the chair-  
12 man of the day -- tell me about that.

13 THE WITNESS: Sir, again it is hearsay to  
14 me. I only have the man was sworn and he was sworn by the  
15 solicitor of the Board at that time, sir.

16 MR. LAWLOR: Under whose auspices? Under  
17 whose direction was it that this took place?

18 Would it be Mr. Legge?

19 THE WITNESS: It would be a presumption on  
20 my part to answer this, sir. I presume that is correct.

21 MR. LAWLOR: Can you think of anyone else  
22 who would have been in that position?

23 THE WITNESS: Not, sir, with the commissioners  
24 that I had worked for for ten years.

25 MR. LAWLOR: What were your relations, your  
26 direct relations -- I mean you did get along well with  
27 Steele and Cauley you say, and what were your relations  
28 during the ten years you were there with Mr. Legge?

29 THE WITNESS: This is very difficult to  
30 explain to you, sir.

MR. LAWLOR: I am sorry ---



1 THE WITNESS: Well, no, I mean I have to be  
2 frank. At one point another medical officer and myself  
3 were taking French lessons so we might become bilingual  
4 employees of the Board and at other times it was sort of  
5 -- I feel that we were just there, we were doing our job,  
6 we didn't have any particular relationship. We did attend  
7 the Board meetings but I don't think my own particular  
8 contribution in the period I attended, that is, in the  
9 latter part of the summer of '65 and fall / <sup>were</sup> very significant,  
10 sir.

11 MR. LAWLOR: I don't want to explore this  
12 to any depth but were you <sup>a</sup> subordinate officer in the militia?

13 THE WITNESS: I beg your pardon, sir?

14 MR. LAWLOR: Were you a subordinate officer?  
15 What was your relationship in the militia?

16 THE WITNESS: No, sir, I was a commanding  
17 officer at the same time Mr. Legge was a lieutenant colonel.

18 MR. LAWLOR: He was a lieutenant colonel?

19 THE WITNESS: Yes, sir.

20 MR. LAWLOR: And did you enjoy good rapport  
21 in those days prior to his joining the Board?

22 THE WITNESS: Yes, sir.

23 MR. LAWLOR: Now, you say he apologized?

24 THE WITNESS: Yes, sir.

25 MR. LAWLOR: That must have -- was that at  
26 some point before the 16th of December of that year?

27 THE WITNESS: Yes; yes, sir.

28 MR. LAWLOR: Would that have not caused you  
29 to reconsider your position?

30 THE WITNESS: Not at that time, sir.



1 MR. LAWLOR: It was too late, was it?

2 THE WITNESS: Well, I had made up my mind,  
3 sir, there was someone else as a medical director and I had  
4 made up my mind, the opportunity was there for me and I  
5 took it.

6 MR. LAWLOR: Thank you very much, Doctor.

7 MR. DEANS: I have another question, and  
8 there were indications of something called a severe dressing  
9 down. Did you ever take in any of these Board meetings  
10 where people were unkindly spoken to by Mr. Legge?

11 THE WITNESS: To me, sir?

12 MR. DEANS: No, to other people.

13 THE WITNESS: Yes, I think this has happened.

14 MR. DEANS: You were there?

15 THE WITNESS: Yes, sir.

16 MR. DEANS: Did you ever feel that it was  
17 improper to do those things in that atmosphere?

18 THE WITNESS: Well, the propriety, sir, I  
19 didn't weigh that much. It was something that was totally  
20 new from what we had understood over a long period of time  
21 dating back to 1952 with apparent regularity in the boardroom  
22 before three commissioners, that this was something new, the  
23 personal admonishment in front of your colleagues, this was  
24 new. I hadn't experienced it previously if that's what you  
25 are looking for.

26 MR. DEANS: You were never one of the  
27 recipients obviously?

28 THE WITNESS: Not in the boardroom, sir.

29 MR. DEANS: Not in the boardroom.

30 Thank you very much.





1 THE CHAIRMAN: Has counsel for any of the  
2 witnesses questions to put to the witness?

3 Thank you, Dr. Johnston. I hope your wearing  
4 of the kilt will in no way influence the decisions of this  
5 Committee.

6 THE CHAIRMAN: Dr. Alexander, please.

7 THE CHAIRMAN: (Swears the witness)  
8

9 HARRY DOUGLAS ALEXANDER, Sworn:  
10

11 EXAMINATION BY MR. DONNELLY:  
12

13 Q. Your full name, sir?

14 A. Harry Douglas Alexander.

15 Q. And I won't suggest your position.  
16 I might get in trouble about surgery. Your occupation?

17 A. I am a surgeon and a gynecologist.

18 Q. And you were with the Board, Doctor,  
19 from September of 1954 until February 11th, 1966; is  
20 that correct?

21 A. Yes, sir.

22 Q. And can you make some comment as to  
23 your general impression under Mr. Sparrow?

24 A. In my eleven years and five months  
25 and one week, the rapport with Mr. Sparrow and the other  
26 two Board members was excellent over the entire period.

27 Q. Do you have any comment about when  
28 Mr. Legge came on the scene, sir?

29 A. My only comment is, and this is  
30 strictly very general, and that is that the morale of the



1 staff in general seemed to gradually deteriorate over the  
2 period of time from the time that Mr. Legge arrived on the  
3 scene until I left the service at the Board.

4 Q. And was the cause of that  
5 deterioration apparent to you, sir?

6 A. I beg your pardon?

7 Q. Could you comment on the cause of that  
8 deterioration you detected?

9 A. No, I really can't comment on it except  
10 that having worked with people for some 30 years since I  
11 graduated in medicine in 1935, I think you have a general  
12 feeling for people and you can sense any change when you are  
13 working with a group, a large group of people as I had at  
14 Workmen's Compensation Board; you can sense the feeling of  
15 the people who are carrying out the bulk of the work. I  
16 can't be any more specific than that.

17 Q. Did you see any effect on the senior  
18 level of the employees of the Board, Doctor, about this  
19 time?

20 A. Yes, I did, and here again, my comments  
21 are only very general because many of the/senior people who would  
22 come to me for discussion privately -- I really didn't make  
23 any particular notes, didn't take their names or can't  
24 remember their names because their assessment of the  
25 situation didn't concern my own personal situation. So that,  
26 in general, it is just a general impression that the staff  
27 as a whole seemed to be most uneasy with Mr. Legge at the  
28 helm.

29 Q. Can you comment on your own personal  
30 experience with Mr. Legge, sir?



1                   A.     Well, I met Mr. Legge only once when  
2 he toured the medical department, shortly after his appoint-  
3 ment. Since I was not a department head I really had very  
4 little further to do with Mr. Legge.

5                   Q.     Tell me, sir, you were still with the  
6 Board when Dr. Johnston, the last witness, left, were you?

7                   A.     Yes, sir.

8                   Q.     Can you tell us the reason why you  
9 left?

10                  A.     Yes, the reason that I left was  
11 following Dr. Johnston's departure his post had to be  
12 filled and I had worked with Dr. Johnston as his assistant  
13 chief medical officer for some eight or nine years and  
14 when Dr. Johnston resigned an appointment became necessary  
15 and this appointment was made without advertising; it wasn't  
16 posted within the medical department and another member  
17 of the medical department who had approximately one year's  
18 service with the Workmen's Compensation Board was appointed.

19                  Q.     Am I presumptuous to think that that  
20 is the reason you left, sir?

21                  A.     Yes, sir.

22                  Q.     And I understand also, Doctor, you  
23 will be available for questions of the Committee?

24                  A.     Yes, sir.

25                  Q.     Is there anything further you wish  
26 to bring forward?

27                  A.     No, sir.

28                         MR. DONNELLY: Mr. Chairman?

29                         THE CHAIRMAN: Mr. Miller.

30                         MR. MILLER: The Chairman knows the question



1 I am going ask but the devil in me is going to make me ask  
2 you a question. You spelled out your professional qualifi-  
3 cations and I was astounded to hear we have a  
4 gynecologist on the Workmen's Compensation Board. Now I  
5 have heard that pregnant prostitutes were entitled to this  
6 coverage, but is this so?

7 THE CHAIRMAN: Proceed with your questioning.

8 MR. DEAN: You won't be popular with Women's  
9 Lib, I'll tell you.

10 THE CHAIRMAN: Are there any other questions  
11 from counsel for any of the witnesses?

12 MR. ALLAN: Could I ask one question?

13 THE CHAIRMAN: Mr. Allan?

14 MR. ALLAN: Dr. Alexander, I am wondering  
15 who made the appointment -- who chose ---

16 THE WITNESS: I do not know, sir.

17 MR. ALLAN: You don't know?

18 THE WITNESS: No, sir.

19 MR. ALLAN: The director of health or who  
20 it was?

21 THE WITNESS: The chief, the appointment to  
22 replace the chief medical officer and I believe the title  
23 now has been changed but what the title is at the moment  
24 I do not know.

25 MR. ALLAN: And you don't know who it was?

26 THE WITNESS: No, sir.

27 MR. ALLAN: And you don't know whether the  
28 Board made the selection?

29 THE WITNESS: I don't know, sir.

30 MR. DEANS: I do have a question, sir. Was





1 it the practice in previous years to post all of the  
2 positions that became available, positions of that type?

3 THE WITNESS: Well, sir, the only position  
4 that became available was a new position to which  
5 Dr. Johnston alluded and that is the position of director  
6 of medical services which I understood the new position to  
7 be. Other positions became available only when the medical  
8 officers voluntarily elected to leave of their own volition  
9 for other appointments in practice or other lines of  
10 endeavour.

11 MR. DEANS: What are you doing now, sir?

12 THE WITNESS: Well, sir, I am working in the  
13 Hamilton office of the Ontario Health Insurance Commission.

14 MR. DEANS: Thank you.

15 THE CHAIRMAN: Thank you, Dr. Alexander.  
16 You may be excused and thank you for assisting the  
17 Committee.

18 MR. DONNELLY: Dr. Jork, please.  
19  
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1 THE CHAIRMAN: (Swears the witness).

2 DR. WALTER JORK, sworn:

3 EXAMINATION BY MR. DONNELLY:

4 Q. Doctor, your full name please?

5 A. Walter Jork.

6 Q. I understand you are qualified in  
7 some branch of medicine?

8 A. I am qualified in the physical  
9 medicine and rehabilitation.

10 Q. And your present occupation,  
11 Doctor?

12 A. I am head of the Department of  
13 Rehabilitation Medicine at Toronto East General  
14 Hospital.

15 Q. East General Hospital?

16 A. East General Hospital.

17 Q. And you were with the Board, Doctor,  
18 for how long?

19 A. A little bit over two years.

20 Q. And I understand you left in  
21 February of 1966; is that correct?

22 A. Yes, that is correct.

23 Q. Were you with the Board then during  
24 Dr. Steele's tenure?

25 A. Yes, from 1962 to 1963, it was one  
26 year appointment with training.

27 Q. Have you any observation to make  
28 as to the working conditions under Dr. Steele as opposed  
29 to your second tenure there, sir?

30 A. Yes. When I left in 1963 to continue



1 my special training I was in the position as a  
2 staff psychiatrist after I had obtained a certification  
3 from the Royal College, and therefore I came back in January  
4 1965 and during this time after several months I  
5 noticed that the general climate of the workings had  
6 deteriorated and it is very difficult to pinpoint, but  
7 being a lower man on the totem pole than Dr. Johnston  
8 and Dr. Alexander I had more contact with Board employees  
9 and there started a great fear about losing jobs.

10 Q. I am sorry, I just didn't hear that,  
11 sir.

12 A. There started a great fear that  
13 they would lose jobs if they wouldn't toe the line this  
14 way, and I think it was late in spring in 1965 Mr.  
15 Legge called us down to give us a lecture of the  
16 department heads, and at this time he laid down that  
17 the Board had to operate with a chain of command and  
18 you had only access to the next superior and you were  
19 not allowed any more to get cross references or cross  
20 contacts as it was before possible.

21 Q. I am sorry, I just didn't hear that.  
22 You were not permitted to ---

23 A. Not permitted to contact other  
24 department heads or other departments without going  
25 through your superior. And before it was very helpful  
26 quite often to get -- for the benefit of the patient --  
27 to get sometimes special arrangements made for a patient  
28 returning back to work and this was not possible any  
29 more. And generally everyone was back to the rules  
30 and regulations was sticking to their order book more



1 or less and so I became frustrated.

2 Q. So you became frustrated?

3 A. And what then

4 really upset me was in late fall, 1965 every  
5 employee of the Board had to take an oath of allegiance  
6 and secrecy to the Board and I objected to that. I  
7 pointed out that oath of allegiance to Her Majesty  
8 is enough and with my background, I am a German, and  
9 I mentioned that in 1945 German people were accused  
10 of sticking to the rules of allegiance and I mentioned  
11 according to The Nuremburg / Trials that oath of allegiance  
12 too dubious. It is not valid any more and so I pointed  
13 out and the Board accepted that it be known that in  
14 future we could get off scot free or we would be stuck  
15 with the ---

16 Q. I am sorry, I just didn't follow  
17 that. You pointed out that ---

18 A. I pointed out that taking this  
19 oath of allegiance for secrecy to the Board that to  
20 have irregularities that would happen at the Board, for  
21 the Chairman and what would happen, and then everyone  
22 would be stuck and we would have difficulties. And as  
23 I was frustrated I disobeyed those German orders and  
24 went directly to Dr. Steele and went with him and  
25 discussed the situation and he tried to reassure me  
26 but I found <sup>out</sup> / that according to what we were told the  
27 Board had to fire me.

28 Q. You disobeyed the orders and  
29 didn't take the oath, is that what you are saying?

30 A. No, I disobeyed the orders and





1 went directly to Dr. Steele without going to the  
2 medical director down through and the Chief Medical  
3 officer and then to Dr. Steele, and he tried to reassure  
4 me / I had pointed out that the Board had to  
5 fire me or charge me for not take the oath.

6 Q. You just didn't take the oath?

7 A. No, and then I started to look  
8 around and then went out and found different employment.

9 Q. Now it may well be that the  
10 Board will have some or the Committee may have something  
11 to ask. Is there anything further that you wish to  
12 volunteer?

13 A. No.

14 MR. DONNELLY: Mr. Chairman?

15 THE CHAIRMAN: Do any Committee members  
16 have any questions of this witness?

17 MR. DEANS: As a Doctor, you do in fact  
18 already have some kind of an oath of secrecy, don't you?

19 THE WITNESS: I didn't get you.

20 MR. DEANS: As a physician of some kind  
21 is there not a confidentiality in terms of the records  
22 of your patients that you adhere to in any event?

23 THE WITNESS: Yes.

24 MR. DEANS: There is. What then was the  
25 purpose of the oath of allegiance and the secrecy?

26 THE WITNESS: I didn't understand it.

27 MR. DEANS: You didn't understand it  
28 just as I don't understand it?

29 THE WITNESS: Yes.

30 MR. DEANS: You don't happen to know how



1/5

1 it came about that this was decided to be done?

2 THE WITNESS: So far as I know the Board  
3 solicitor went around and you had to take the oath and  
4 I refused.

5 MR. DEANS: Do you know if people had to  
6 take it previously? Was this the first time it had  
7 ever been taken?

8 THE WITNESS: I assumed it was the first  
9 time.

10 MR. DEANS: You couldn't -- I just wanted  
11 to refer to your previous employment and then return to  
12 the Board. The things that you noticed at the Board on  
13 your second time around, it couldn't just be that you  
14 had forgotten, you know, what it was really like the  
15 first time, and sort of conjured up a better view?

16 THE WITNESS: No, no, definitely not.

17 MR. DEANS: Thank you.

18 THE CHAIRMAN: Thank you. Mr. Miller?

19 MR. MILLER: Do you know of any other  
20 employees who refused to take the oath?

21 THE WITNESS: No.

22 MR. MILLER: Just yourself?

23 THE WITNESS: Yes.

24 MR. MILLER: You were all required to  
25 take the oath?

26 THE WITNESS: Yes. We heard at first  
27 that the cleaning person had to take it and there was  
28 a joke, but when we went and found from the medical  
29 down through we found we had to take the oath and it  
30 was found that it was true.



1 MR. DEANS: Is that the oath that is  
2 administered at the swearing in ceremony that is held  
3 every once in a while? I don't really understand it.  
4 I understand from a previous witness, and I just can't  
5 find the reference here but that there is some kind  
6 of a ceremony held.

7 MR. LAWLOR: You mean an induction  
8 ceremony.

9 MR. DEANS: An induction ceremony, that  
10 is the word, something like joining the Boy Scouts,  
11 there is an induction ceremony. Is this when the oath  
12 is administered?

13 THE WITNESS: No. When I started in 1962  
14 I wasn't asked about anything.

15 MR. DEANS: Was there an induction  
16 ceremony?

17 THE WITNESS: No.

18 MR. MILLER: I wonder if this is <sup>a</sup>unique oath  
19 to the Workmen's Compensation Board or whether it's  
20 similar to anything given in the Civil Service.

21 THE CHAIRMAN: I understand it isn't,  
22 at least not at the Workmen's Compensation Board. Is  
23 there someone who can answer here about any other branch?

24 MR. ALLAN: Mr. Chairman, there will be  
25 someone from the Board who will be speaking ---

26 MR. DONNELLY: That is the first I have  
27 heard about it and I thought if he didn't take it he  
28 didn't know what it was, and that is why I didn't pursue  
29 it, but perhaps we can get some information from the  
30 Board.



1 MR. ALLAN: I think that all civil  
2 servants take an oath of secrecy. You should be able  
3 to tell us.

4 MR. WALL: Yes, that's right.

5 MR. ALLAN: I wouldn't think there was  
6 anything objectionable about that.

7 MR. DEANS: What is that all about?  
8 You mean you swear to the Government you won't tell  
9 the opposition what is going on?

10 In other words, you have got to act  
11 just like the Government does?

12 MR. DONNELLY: Mr. Chairman, I am advised  
13 by the solicitor for the Board that is the oath for all  
14 civil servants required under the Public Service Act.

15 MR. DEANS: Do all Board employees come  
16 under the Public Service Act?

17 MR. AUSTIN: We are required to take the  
18 oath.

19 MR. DEANS: But the Board employees are  
20 not employees of the Public Service, the Board employees  
21 are employees of the Board.

22 We will pursue that later because I just  
23 wondered -- that's for another day, though.

24 MR. FERRIER: I would just like to ask  
25 one question. Dr. Jork, you mentioned the staff at  
26 Downsview seemed to deteriorate in morale and they had  
27 a fear of losing their jobs. Do you know what triggered  
28 this fear?

29 THE WITNESS: Not any special event or  
30 occurrence. This atmosphere -- the working atmosphere





1 was, I don't know, was somewhat icy.

2 MR. FERRIER: It had changed?

3 THE WITNESS: Definitely.

4 MR. FERRIER: That's all I have.

5 THE CHAIRMAN: Any other Committee members  
6 have questions of this witness?

7 MR. DEANS: May I ask the Counsel a  
8 question? Would the oath of secrecy taken by civil  
9 servants supercede the oath taken by the Committee?

10 MR. DONNELLY: Sorry, I just didn't follow  
11 you.

12 MR. DEANS: Well, would the oath of  
13 secrecy taken by the civil servants take precedence over  
14 the oath that is taken by the Committee to tell us what  
15 goes on?

16 MR. DONNELLY: I think I would take that  
17 under advisement. You mean the oath you administer here,  
18 how is that compared with the oath of secrecy?

19 MR. DEANS: Well yes, if you have taken  
20 an oath of secrecy if you then want to tell us what goes  
21 on, which one is the predominant oath.

22 MR. DONNELLY: I am not familiar with  
23 this oath of secrecy but I will take it under advisement.

24 MR. LAWLOR: One oath cancels the other.

25 THE CHAIRMAN: Are there any further  
26 questions by other counsel to put to this witness through  
27 Committee Counsel?

28 If not, Dr. Jork, you may be excused  
29 and thank you for assisting the Committee.

30 MR. DONNELLY: Mr. Cater please.



THE CHAIRMAN: (Swears the witness).

RAYMOND BOYD CATER, sworn:

EXAMINATION BY MR. DONNELLY:

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Cater,

1 Q. Mr. Cater, your full name, sir?

2 A. Raymond Boyd Cater.

3 Q. And your present occupation?

4 A. I am with the Canada Post Office,  
5 Superintendent, Manpower Resources.

6 Q. And you were with the Board, sir, were  
7 you?

8 A. Yes, I was.

9 Q. For how long?

10 A. From February of 1960 until July of  
11 1966.

12 Q. And in what capacity?

13 A. I started with the Board as a wage  
14 and salary administrator and I left the Board as Director  
15 of Personnel.

16 Q. Can you make any comment as to the  
17 comparison between the Sparrow era as opposed to the  
18 Legge era?

19 A. Yes, I think I probably could. I  
20 think what we are dealing with here, Mr. Counsellor, are  
21 two different types of managers. Mr. Sparrow was the type  
22 who was, you know, a very friendly type and so forth and,  
23 if you like, Mr. Legge was not in that particular category.  
24 It took more to get to know him if you like, and I am  
25 thinking -- talking merely about personalities now and not  
26 in technical competence.

27 Q. And have you any comment about the  
28 technical competence of Mr. Legge?

29 A. I have none to offer, sir.

30 Q. And can you compare the working conditions



as you experienced them, sir?

A. Well, I think when -- in Mr. Sparrow's era the working conditions were very good I think; it seemed to be quite a harmonious type of working relationship. When Mr. Legge came into the Board a number of changes were made and I think people are always reluctant to have changes made, if you like, and I think that this brought on some, I suppose ill feeling or insecurity or, you know, this sort of thing and this may have been due, if I may offer this in <sup>part, that</sup> / probably the changes weren't communicated to a sufficient degree.

Q. That's very interesting, you say the change itself may breed some dissention, but if the change is communicated properly it may reduce that dissention?

A. It is just an opinion of mine.

Q. Now can you tell us your reasons for leaving, sir?

A. Well, I left the Board because I felt that the Board didn't offer me a future.

Q. Can you be more explicit as to why, sir?

A. I don't think I would like to be any more explicit than that unless you have some specific question you would like to ask me.

Q. I don't know and I'm not sure -- I don't want to press you if you don't want to answer, but was it relative to the working conditions or some change in the conditions, sir?

A. I suppose in part, but I don't think that that would be a major part, you know, of my decision.





1 I think a number of things, you know, contribute to  
2 one's leaving of an organization and I don't know that  
3 because of Mr. Legge's presence there, you know, that it  
4 prompted my leaving any more than if it might have been  
5 someone else that had been coming in to operate the  
6 Board.

7 MR. DONNELLY: The Committee members may  
8 ask you some questions, sir.

9 THE CHAIRMAN: Do any of our Committee  
10 members have any questions?

11 MR. ALLAN: Mr. Chairman, I wonder if I  
12 could ask Mr. Cater if the position he holds now, if  
13 he would consider this to be a better position than the  
14 position of the Director of Personnel for the Workmen's  
15 Compensation?

16 THE WITNESS: Mr. Allan, if I may, I don't  
17 think I left the Board -- I don't think in leaving the  
18 Board that I enhanced my overall position.

19 MR. ALLAN: Well then would it be unfair  
20 to ask you if you thought you were going to do that at  
21 the time?

22 THE WITNESS: I don't think I was going  
23 to at that time.

24 MR. ALLAN: Well then, I am afraid I am  
25 the one who is frustrated because -- you know, we are  
26 all a bit selfish, aren't we? We think of ourselves and  
27 there must have been some reason for you making the  
28 change because the Director of Personnel -- perhaps <sup>at</sup> that  
29 time it wasn't considered as important a position in the  
30 Workmen's Compensation Board as it is now.



1 THE WITNESS: I don't think at that time,  
2 Mr. Allan, that probably it was as important a position as  
3 it is today. I think I know Mr. Betts presently, you  
4 know, incumbent in that position or a similar type of  
5 position, I think it probably has grown from the time that  
6 I was there.

7 MR. ALLAN: I have a very high regard for  
8 the need of good directors of personnel and I think they  
9 have a great deal to do with building up an organization  
10 that can function and be good.

11 THE WITNESS: At that time, sir, I was in  
12 my early thirties and I felt I was the Director of  
13 Personnel for the Board. I couldn't see that I was going  
14 to go much further in the Board organization; I did not  
15 have the background in claims, rehabilitation, adjudication,  
16 etc. My specialty, if I may, was the personnel management  
17 function, so that that entered into my thinking and, you  
18 know, I felt that in my thirties I aspired to something  
19 higher, you know, if you like, not only position-wise  
20 but salary-wise and so that, if you like, that with  
21 other things resulted in my leaving the Board.

22 MR. ALLAN: I think you have made mostly  
23 good decisions in your life, though, haven't you?

24 THE WITNESS: I'm sorry, sir?

25 MR. ALLAN: I said I am sure most of the  
26 decisions you have made have been good ones.

27 THE WITNESS: I would like to feel so. I  
28 don't like to look back and say, "Did I make a good one  
29 or a bad one?"

30 THE CHAIRMAN: Mr. Deans?



1 MR. DEANS: Were you -- did you take part  
2 in the management meetings that we have heard of, the  
3 meetings to discuss matters of importance within the  
4 Board?

5 THE WITNESS: No, I wouldn't -- could you  
6 be more specific? In general terms I would say, Mr. Deans,  
7 no.

8 MR. DEANS: It was reported by Mr. Dowding  
9 that there were meetings of the Board at the executive  
10 level and I would assume Mr. Dowding succeeded you at  
11 the Board; is this correct?

12 THE WITNESS: Yes, it is correct.

13 MR. DEANS: So that I then assume that  
14 if he attended them that any that were held prior to your  
15 leaving that you would have been the person who would  
16 have attended those?

17 THE WITNESS: Well, I would have thought,  
18 Mr. Deans, probably there were changes made at the Board  
19 that I'm not familiar with. I left there some six years  
20 ago now, and if I may, if there were presentations to be  
21 made to the Board concerning personnel I made these types  
22 of presentations and so forth.

23 MR. DEANS: But you didn't go into meetings  
24 as did Dr. Johnston, for example? I believe Dr.  
25 Johnston said he attended the meetings.

26 THE WITNESS: No, I don't recall attend-  
27 ing too many management meetings.

28 MR. LAWLOR: The Friday morning meetings?

29 THE WITNESS: No.

30 MR. DEANS: The weekly sort of chit-chat



1 around the Board?

2 THE WITNESS: No.

3 MR. DEANS: Were you familiar at all with  
4 any feeling among other persons at a similar level to your  
5 own, discontent with the operations of the Board which  
6 had grown after Mr. Legge's appearance on the scene?

7 THE WITNESS: Well, I suppose nothing that  
8 I can really base on fact. I think if you like people  
9 were concerned because of certain organizational changes.

10 MR. DEANS: I'm sorry?

11 THE WITNESS: I think people were concerned  
12 about certain organizational changes, and I think, if you  
13 like, there was a change -- I think a change affected  
14 concerning the working hours, and as I recall we started  
15 15 minutes later in the morning and finished 15 minutes  
16 later in the afternoon to give workmen, you know, a greater  
17 opportunity of coming into the Board and I think this upset  
18 people because, you know, people had rides with various  
19 people in parts of the city and things of this nature.

20 MR. DEANS: A kind of a minor upset?

21 THE WITNESS: But, you know, this was just  
22 throughout the staff.

23 MR. DEANS: Could you tell me whether it  
24 was the custom and practice of the Board to post vacancies  
25 at these senior levels, director level and the like,  
26 assistant director? Were you -- I'm thinking in particular  
27 of Dr. Alexander and the vacancy that occurred that he  
28 applied for -- or didn't apply for because he didn't know  
29 it existed. Was it the practice of you as personnel  
30 director to post these?





1 THE WITNESS: Well I am only -- I'm  
2 trying to recall now. I think some were posted and  
3 some were not. Some were advertised in the local papers,  
4 some were advertised within. I seem to feel fairly  
5 generally the people within were aware, you know, that  
6 we were looking for people with a certain skill.

7 MR. DEANS: But you didn't feel the  
8 necessity to post positions in order that everyone would  
9 definitely be aware of them and could apply if they  
10 wanted?

11 THE WITNESS: No, we didn't post every  
12 position.

13 MR. DEANS: Is that normal procedure  
14 in personnel relationships not to post positions for  
15 internal promotion purposes?

16 THE WITNESS: Any organization that I  
17 have been with, I think that is correct, you know, you  
18 do promote from within wherever you possibly can, but  
19 you don't post every position inside. You look  
20 at your inventory and see what sort of personnel you  
21 have first of all to determine what you would gather  
22 from an internal posting.

23 THE CHAIRMAN: Mr. Ferrier?

24 MR. FERRIER: I just have a couple of  
25 questions. I notice you were there between February  
26 1960 and July 1966. Did this change in the cafeteria  
27 take place during your tenure where we have the three  
28 stages so to speak that we hear of? Was the three  
29 stage setup after Mr. Legge's coming?  
30



1 THE WITNESS: Yes. Yes, it was set up  
2 during my tenure at the Board.

3 MR. DEANS: Which year was that?

4 THE WITNESS: I would think in early 1966.  
5 I couldn't be sure.

6 MR. FERRIER: Do you remember what  
7 reaction there was amongst the staff at that time?

8 THE WITNESS: Well, I think there was  
9 mixed feeling. I think that there always is in any  
10 change, sir. I think we had gone through some organiz-  
11 ational changes and I think it was considered that there  
12 was an insufficient room in what was the executive  
13 dining room to, if you like, accommodate the various  
14 department heads. So that the executive dining room was  
15 reserved, if I may, for the Board members and principal  
16 officers and guests of the Board. The middle managers  
17 were invited to use the facilities that were in the  
18 dining area at the back of the cafeteria.

19 MR. FERRIER: Previous to this change  
20 had it just been one cafeteria where everybody inter-  
21 mingled?

22 THE WITNESS: Previous to this change  
23 there was a large cafeteria within the executive dining  
24 room and, if you like, I think there were less people  
25 invited to use the executive dining room and in using  
26 the executive dining room I think we used it for, you  
27 know, coffee in the morning and afternoon and I think  
28 it was restricted to the Board members and their guests  
29 for the noon meal.

30 THE CHAIRMAN: Mr. Gaunt?



1 MR. GAUNT: I have just a few short  
2 questions, Mr. Chairman.

3 Mr. Cater, you came to the Board in  
4 February of 1960 and you left in July of '66 and you  
5 ended up as being Director of Personnel. How long were  
6 you Director of Personnel, do you recall?

7 THE WITNESS: Not exactly. I would think  
8 probably 18 months, something in that vicinity.

9 MR. GAUNT: I am wondering about the  
10 hiring policies of the Board during your tenure as  
11 Director of Personnel. What I am getting at, was there  
12 any preference given to people in the militia in the  
13 hiring policies as you deemed them?

14 THE WITNESS: No, I don't think there was  
15 any preference given, if I may. I think if there was  
16 any preference given -- the only laid-down policy as  
17 I recall regarding preference was preference to the  
18 injured workman. I think that was the only preference  
19 if it could be spelled out as such. Certainly, sir, I  
20 never gave any preference to anyone from the military  
21 or any of the Armed Forces. In coming into the  
22 organization as far as I was concerned was simply on  
23 the basis of them.

24 MR. GAUNT: All things being equal you  
25 would give preference to an injured workman?

26 THE WITNESS: That is correct.

27 MR. GAUNT: Mr. Legge was appointed I  
28 believe in the early part of 1965. You were Personnel  
29 Director for a short period under Mr. Sparrow?

30 THE WITNESS: I think that is correct.



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MR. GAUNT: Did you notice any percept-  
able shift in hiring policies when Mr. Legge took over?





1 THE WITNESS: Well, I think what we did,  
2 as best as I can recall, and we have hired quite a few  
3 people since that time, and it's difficult to recall with  
4 an affirmed degree of exactness but I think what we always  
5 did was to do a screening job as part of the personnel  
6 function and we referred the various people to the managers  
7 of the various departments and it was up to them to make  
8 the final selection.

9 MR. GAUNT: Well, I can appreciate what you  
10 say with respect to the hiring of injured people. I think  
11 there was considerable emphasis on that when Mr. Sparrow  
12 was there, as I come to know it. Did it make any difference  
13 after Mr. Legge's appointment if you had two or three  
14 recommendations from wing commanders, just to use an example?

15 THE WITNESS: Well, I didn't have anyone come  
16 with that type of recommendation that I can recall. No, I  
17 don't think -- you know, if I may, just offer this type of  
18 statement. When Mr. Sparrow was at the Board, he had called  
19 me up on occasion to see somebody who had come in and asked  
20 if I would interview them, you know, just to see if there  
21 was -- what sort of skills they had, did we have a position  
22 that we could use them, you know, this type of individual,  
23 and I suppose the same of Mr. Legge. Never did I feel that  
24 there was any pressure on me at any time to say, "Well,  
25 this man has to be hired because he came in to see the  
26 chairman." Maybe the chairman didn't know him until he  
27 dropped into the office that day and there are people who  
28 feel that does the job, and see the chairman.

29 MR. GAUNT: Start at the top?

30 THE WITNESS: Start at the top and work down



1 to the director of personnel.

2 MR. GAUNT: So there was never any situation  
3 where Mr. Legge would say "We would appreciate it if you  
4 would hire this particular gentleman."

5 THE WITNESS: I can never recall Mr. Legge  
6 saying to me that he would like me to hire a particular  
7 individual.

8 THE CHAIRMAN: Are you completed, Mr. Gaunt?

9 MR. GAUNT: Yes.

10 MR. DEANS: Was anyone ever hired  
11 without going through you?

12 THE WITNESS: Well, I suppose that is a  
13 rather difficult question, Mr. Deans. The way we were  
14 operating is, if you like, the department head really made  
15 the selection, you know, so that it was not unusual for  
16 the department head to come down and say, you know, "This  
17 is a medical officer that I would like documented for my  
18 staff."

19 MR. DEANS: So you simply processed it at  
20 that point?

21 THE WITNESS: At that point it would just  
22 be processed. At that point he was accountable for that  
23 particular selection. He was the man who was accountable  
24 to the Board for that.

25 MR. LAWLOR: Just one question, if I may,  
26 Mr. Chairman. To whom did you report? If you want to make  
27 the distinction, in Sparrow's era and in the Legge era.

28 THE WITNESS: Well, I reported to various  
29 people during my tenure at the Board.

30 MR. LAWLOR: No, while you held the position



1 of director of personnel.

2 THE WITNESS: While I held that position  
3 I reported to -- during Mr. Sparrow's era, to a  
4 Mr. Alf O'Brien.

5 MR. LAWLOR: What was he?

6 THE WITNESS: Now, Mr. Lawlor, I am sorry,  
7 I do not recall all the position titles but I reported to  
8 Mr. O'Brien, and in Mr. Legge's era. In Mr. Legge's era  
9 I reported to a Mr. Jack Hollingworth and Mr. George Poole.

10 THE CHAIRMAN: Are there any questions  
11 through any of the counsel present?

12 Well, Mr. Cater, you may be excused. Thank  
13 you for contributing to the Committee.

14 MR. DONNELLY: Mr. Viseman, please.

15 THE CHAIRMAN: (Swears the witness)

16  
17 FRANK HENDRIK VISMAN, Sworn:

18  
19 EXAMINATION BY MR. DONNELLY:

20 Q. Your full name, sir?

21 A. Frank Hendrik Visman.

22 Q. And your present occupation?

23 A. I am with Kaleidoscope Advertising.

24 Q. And you were with the Board, sir,  
25 for 15 years, were you?

26 A. Yes, that's right.

27 Q. And that was from what, January of  
28 1957 to March 16th of 1972?

29 A. That's right.

30 Q. And I understand that there were two



1 principal reasons why you -- excuse me. What was your  
2 position there when you started and when you left, sir?

3 A. I started as some sort of an accounting  
4 clerk -- I don't remember what -- and I left as controller.

5 Q. As I understand, there were two  
6 principal reasons why you left, were there?

7 A. One mainly.

8 Q. Well, perhaps it is better to originate  
9 from you. What was the reason or what were the reasons,  
10 sir?

11 A. Shortly before I left, the director  
12 of finance had a re-organization approved by the Board and  
13 I didn't like the way it affected me so I decided to call  
14 it quits.

15 Q. Specifically, how did it affect you  
16 or your position, sir?

17 A. The overall scope and responsibilities  
18 of the position were slightly restricted and the title was  
19 to be changed and I am the type of fellow that either goes  
20 up or out.

21 Q. And this was out, I take it, was it?

22 A. Yes, this was the result of this side-  
23 ways move.

24 Q. You were there, sir, I suppose in  
25 both eras, if I could call it that?

26 A. Yes.

27 Q. Can you make a comparison for us, sir,  
28 or make your own observation?

29 A. That is very difficult for me because  
30 during Mr. Sparrow's tenure, if I may call it that, I was





1 still very low on the totem pole in the accounting division  
2 so I wasn't really exposed to the dealings in the higher  
3 echelons, just to serve on the small family group in the  
4 division. I didn't get higher up the ladder until after  
5 Mr. Legge had taken office. I worked well with Mr. Legge.

6 Q. Pardon?

7 A. I worked well with Mr. Legge.

8 Q. You, sir, and perhaps my memory may  
9 not be accurate in this, but I think you have been there  
10 really as long as any of the witnesses we have had who have  
11 since left the Board. You were there up until a month ago,  
12 were you?

13 A. Yes, that's right.

14 Q. Have you anything further to offer  
15 the Committee as to the working conditions now and in the  
16 last year or two, relative I suppose to the '65 to 1970  
17 era say?

18 A. Oh, things at the moment are probably  
19 a little bit unsettled, they have been for quite awhile.  
20 I think this is largely due to the same uneasiness that  
21 you will find all over. I think we smell it outside at  
22 the moment.

23 Q. When you say all over, do you mean  
24 in general terms?

25 A. In general terms, in government, in  
26 industry and as a result of inflation, and so people feel  
27 that this increase should come faster and be more generous.

28 Q. You have got to keep up with your  
29 neighbours, I suppose, is that it?

30 A. Yes.



1 Q. But, apart from that, can you make  
2 any observations -- what I am wondering is, has it  
3 stabilized any in the past couple of years? We have heard  
4 of several years of change. Did those years in fact  
5 exist and, if so, have they ended or are we still in that  
6 condition?

7 A. There still is and probably always  
8 will be a certain element of change. An organization of  
9 the size of the Workmen's Compensation Board cannot afford  
10 to stand still; they must keep on improving, strive for  
11 better efficiency and all that sort of thing. At the  
12 moment they stop thinking about how they can do it better  
13 they fall back.

14 Q. I think probably the Committee agree  
15 with that and the point is well taken, but what I was  
16 saying is this; that we have heard much evidence about  
17 whether there will be radical changes or not, that they  
18 existed for some time and some time to bring these changes  
19 in and, as a result, there may have been some uneasiness  
20 reflecting in the employees and I wondered if you experienced  
21 that and, if so, does it still continue or has it stabilized  
22 now?

23 THE WITNESS: Oh, I think it is as stabilized  
24 as it could possibly be. I think the time of radical changes  
25 at the moment is not there. It may come again some time in  
26 the future. It may be necessary again. But at the moment  
27 I think the organization is such that it is quite stable.

28 MR. DONNELLY: The Committee may ask you  
29 questions.

30 THE CHAIRMAN: Mr. Miller?



1 MR. MILLER: The organizational structure  
2 of the Board has been given to us as one of the Exhibits  
3 today comparing 1964's organizational structure and 1972's  
4 and it appears to have changed quite a bit.

5 THE WITNESS: Yes.

6 MR. MILLER: You were familiar with both,  
7 I would assume?

8 THE WITNESS: I am more familiar with the  
9 current set-up than with the set-up prior to 1965.

10 MR. MILLER: Well, within our frame of  
11 reference, I believe it is important for us to appraise  
12 the organizational structure. Do you feel it is well  
13 organized at the present time?

14 THE WITNESS: At the moment, very well  
15 organized, yes.

16 MR. MILLER: Do you feel that this attitude  
17 of fear that has been alluded to exists to any large degree  
18 at the present time?

19 THE WITNESS: I don't really think there is  
20 an element of fear at the moment. Over the years the  
21 people have found that where radical changes were necessary,  
22 the Board never threw anybody by the way, out of the way.  
23 They made always sure that whoever was affected by the job  
24 was looked after in a comparable fashion. Now mind you,  
25 the position the Board may transfer a person to may not be  
26 too agreeable to that person, he may not like his particular  
27 type of work, he may not like the idea of being transferred  
28 in the first place, but the Board never threw anybody out.  
29 Now this they have learned over the years.

30 MR. MILLER: You say radical changes were



1 necessary, or you said these words, and I may be misquoting  
2 your intent.

3 THE WITNESS: Well, there have been some  
4 radical changes. In my own area, for instance, in 1965 we  
5 had single entry bookkeeping system and it was done on a  
6 cash basis. Now the Board is on double entry bookkeeping  
7 system and an accrual basis which is a very radical change.

8 MR. MILLER: Would you feel that this, you  
9 know, the changes we have heard about, about people being  
10 promoted over with a long lot of seniority, things that  
11 happened around the years '65 and '66 were essential at  
12 that time?

13 THE WITNESS: This is a management decision.  
14 Now there may be many factors entering into this. The  
15 Board at the time these decision were taken or the principal  
16 officer for it who had to make the recommendations to the  
17 Board undoubtedly looked at the new position created and  
18 at the various people available and they selected the best  
19 man for the job. And, of course, one must keep in mind  
20 that in many of the high level positions, technical know-  
21 how of the particular field is not essential; it is  
22 managerial and executive ability that really counts because  
23 you can always get the experts to do the nitty gritty for  
24 you.

25 MR. MILLER: That is all, sir.

26 THE CHAIRMAN: Mr. Deans?

27 MR. DEANS: Thank you. Are you saying,  
28 Mr. Visman, in your last statement to Mr. Miller, that the  
29 ability to coordinate and to establish an understanding in  
30 the system is more important in the appointment of these :





1 people than the ability to do the job itself?

2 THE WITNESS: Yes, the ability to do the job  
3 and the technical know-how to know exactly how the day to  
4 day work has to be done.

5 MR. DEANS: That in fact a person appointed  
6 as the director of that particular branch doesn't require  
7 a great knowledge of the operation of his branch as much  
8 as he requires an ability to know the people that do have  
9 the knowledge?

10 THE WITNESS: Yes, to have that ability  
11 and to hold them on the right track.

12 MR. DEANS: Do you feel that Mr. Legge had  
13 that quality?

14 THE WITNESS: I personally think that  
15 Mr. Legge is very capable at selecting the right people to  
16 do the job for him. I have a great admiration for the man.

17 MR. DEANS: That wasn't what I asked you.  
18 I too have an admiration for him but what I asked you is  
19 do you feel he has the quality that we decided was neces-  
20 sary to be the person who made those decisions, an ability  
21 to work with the people and to impart to them what it was  
22 that had to be done and to get their loyalty in order to  
23 get it done?

24 THE WITNESS: I think he does provided that  
25 the individual selected can adjust himself or herself to  
26 Mr. Legge's particular management style.



1 MR. DEANS: Have you ever worked in an  
2 organization that had that particular management style  
3 at the top?

4 THE WITNESS: Yes, I did as a matter of  
5 fact.

6 MR. DEANS: Where was that?

7 THE WITNESS: That was back home in  
8 Holland in the Army.

9 MR. DEANS: I suspected that would be  
10 the answer.

11 I have nothing further. Thanks very much.

12 THE CHAIRMAN: Are there any other  
13 questions from the Committee members?

14 Are there any counsel present?

15 Have you completed, Counsel?

16 MR. DONNELLY: Yes, sir.

17 THE CHAIRMAN: Thank you, Mr. Visman.  
18 You may be excused and thank you very much for your  
19 contribution.

20 MR. DONNELLY: Mrs. Roderick please,  
21 Mrs. Mary Roderick please.

22 THE CHAIRMAN: (Swears the witness).

23 MARY RODERICK, sworn:

24 EXAMINATION BY MR. DONNELLY:

25 Q. Your full name, please, witness.

26 A. Mary Worth Roderick.

27 Q. And your present employment?

28 A. I am with the committee on  
29 Government Productivity.

30 Q. And just before we launch into the



1 question of the Compensation Board, have you had any  
2 experience in attempting to introduce change in the  
3 Government at any level?

4 A. I am observing the results of the  
5 implementation of the Committee; that they have made  
6 particularly in the structures of Government.

7 Q. Can you make any comment as to the  
8 resistance that you encounter in that area that you  
9 see?

10 A. I think the Committee possibly had  
11 expected to encounter resistance because resistance is  
12 a normal thing, they more or less have expected it.  
13 But surprisingly, the implementation seems to be going  
14 ahead very smoothly.

15 Q. What was your function or your  
16 position at the Board?

17 A. I was working in Public Relations.

18 Q. When were you there?

19 A. I was there April 1965 until  
20 January, 1966.

21 Q. And did the scope of your duties  
22 give you an opportunity to work with Mr. Legge or to  
23 see him working?

24 A. Yes, they did. When I went there  
25 we didn't have a Public Relations Director and so we  
26 more or less worked right directly under Mr. Legge.

27 Q. And can you give the Committee the  
28 benefit of your own observations as how you found him  
29 to work with and for?

30 A. Well, I found that Mr. Legge went



1 to the Board with very, very high ideals; I think that  
2 he felt that his appeals system which he was designing  
3 at that time would help -- would really help the  
4 workman who had problems and who wanted to appeal and  
5 wanted to be heard, and in Public Relations we spoke to  
6 the people, we brought visitors to the Board and to the  
7 hospital and we talked to them about the appeals system  
8 and about the Act itself which I understand is one of  
9 the finest in the world. They came from all over the  
10 world to study the Ontario Workmen's Compensation Board.

11 Q. Do you have some comment that you  
12 wanted to make about his integrity?

13 A. Yes, I would like to state that I  
14 think that there is absolutely no question about that  
15 man's integrity. I think that integrity is his way of  
16 life.

17 Q. And was there some comment you  
18 wanted to make about his mind or intelligence or something  
19 of that nature?

20 A. Yes, I think he was an extremely  
21 intelligent man, in fact perhaps in some areas his  
22 intelligence set him perhaps apart from the people that  
23 he was associated with daily and perhaps this might have  
24 made him seem aloof and separated. He had a very fine  
25 mind. As I have often said, he got to a problem by  
26 peeling it like a banana, so it was very quick and very  
27 clean. He wasn't interested in people's opinion. His  
28 legal mind arrived at decisions through process of  
29 logic. He welcomed people's observation but I think  
30 he felt that opinions could be prejudiced and he preferred





1 to work through observations and logic.

2 Q. And do you have any observation to  
3 make about his dealings with the individual departments  
4 that were under him?

5 A. Well, he was very concerned with  
6 the management of the Board and he made the changes in  
7 the departmental structures and I think he believed  
8 that he moved people around and people sometimes resisted  
9 these changes, but I think he believed that they were  
10 good for the Board, they didn't work for an individual  
11 division or group or department, and that their  
12 abilities really belonged to the Board as a whole, and  
13 that they could be used wherever they were most  
14 advantageous to the Board.

15 Q. Can you tell the Committee why  
16 you left the Board, Mrs. Roderick, please?

17 A. Yes, I was remarried at the time  
18 and we decided to leave the City and we brought a farm  
19 up on Georgian Bay.

20 Q. Did it have anything to do with  
21 the working conditions as you found them at the Board?

22 A. No, we moved north, we bought a  
23 farm and we moved right out of the City.

24 Q. Was there anything further you  
25 wanted to volunteer? I understand you will be available  
26 for questions, but is there anything further you wanted  
27 to volunteer?

28 A. Well there is one point that I  
29 might make in illustrating Mr. Legge's integrity was  
30 such that it involved even very small matters. One day



1 my secretary called me and asked me if I could get two  
2 tickets for a lady who had talked to her to an event --  
3 I think the tickets were very scarce at the time -- and  
4 I got the tickets and took them into Mr. Legge's  
5 secretary and Mr. Legge happened to be there and he  
6 said, "How did you get the tickets?" And I just said,  
7 "Well, the lady was a friend of yours," and he said,  
8 "Well, how could you say that?" I have never even seen  
9 the woman." And it was a misunderstanding on my part,  
10 but he looked at me almost as though he were a little  
11 hurt, a little disappointed that I had said something  
12 that wasn't true.

13 Q. Is there anything further that you  
14 wanted to bring before the Committee, Mrs. Roderick?

15 A. I think that is about all. I  
16 recall earlier today the mail strike was mentioned and  
17 I think one of the points -- I don't know whether it  
18 was brought out -- but Mr. Legge cleared it with the  
19 unions that it would be perfectly all right to deliver  
20 pensioner's cheques, that is, the Workmen's Compensation  
21 and as a matter of fact we had calls from people on Old  
22 Age Pension and other forms of pension to see if we  
23 were going to deliver them too, so that the Compensation  
24 Board were first, they were ahead of the Pension Board  
25 or anyone else.

26 MR. DONNELLY: Now the Committee members  
27 may have questions, Mrs. Roderick.

28 THE CHAIRMAN: It wouldn't appear that  
29 any members of the Committee have questions at this  
30 time.



4/6

1 Were there any questions from non  
2 Committee members or counsel for any of the witnesses?

3 It would appear, Mrs. Roderick, that you  
4 can be excused now.

5 Thank you very much for your contribution.

6 MR. DONNELLY: Mr. Chairman, may I advise  
7 you that there was another witness subpoenaed, Robert  
8 W. Chappell, and I have interviewed him quite fully but  
9 he advised me that he was going to Barbados last Thursday  
10 for a week and he asked if he could be excused, and I  
11 had told him that he could. Whether I did right or  
12 wrong, that's what I did. There is another witness that  
13 was subpoenaed, Paul Dove, and somehow -- is there a Mr.  
14 Paul Dove here?

15 MR. DEANS: I believe I spoke with you  
16 about Mr. Dove.

17 MR. DONNELLY: I was going to say there  
18 was some message about it but I really forget what it is.

19 MR. DEANS: I spoke to you about Mr. Dove  
20 and after speaking to you advised me that you could  
21 recommend that he could be released.

22 MR. DONNELLY: That exhausts the list of  
23 the witnesses I think that were given to me, and now  
24 Mr. Hamilton is ready, if you wish, to start on a  
25 presentation regarding the building, but it is entirely  
26 up to the Committee whether you want to.

27 THE CHAIRMAN: I believe the Committee  
28 has signified their wishes to start fresh on that  
29 tomorrow morning sharp at 10:00 o'clock.

30 MR. DONNELLY: Excuse me, tomorrow we



1 have subpoenaed the industries and maybe if you want to  
2 start remissions, they are here.

3 THE CHAIRMAN: We will leave that until  
4 the morning, but I think at this time we will adjourn  
5 until 10:00 tomorrow morning.

6 --- Upon adjourning at 10:00 p.m.

7  
8 CERTIFIED CORRECT:

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10 Wm. G. G. G.  
11 Reporter  
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1 --- Upon commencing at 10:20 a.m.

2 THE CHAIRMAN: I call this meeting to order.  
3 I believe, Counsel, that you had a brief statement to  
4 make prior to getting on with the hearing?

5 MR. DONNELLY: I didn't learn my lesson  
6 yesterday, sir.

7 THE CHAIRMAN: Well, we didn't want you  
8 to.

9 MR. DONNELLY: First of all, Mr. Cauley's  
10 solicitor has asked if he and Mr. Cauley may be excused  
11 if we are now going to go on to other matters, and then  
12 if we may recall them.

13 THE CHAIRMAN: I may say we had a communi-  
14 cation by Mr. Decker of the Board who states that because  
15 of the Board hearings that had been postponed because of  
16 these hearings that he will not be available today  
17 either.

18 You may proceed.

19 MR. DONNELLY: Another matter, sir, Mr.  
20 Webb now appears with the Board. Mr. Austin is now  
21 engaged elsewhere and I think will be back.

22 Finally, sir, the representatives of the  
23 industries have been subpoenaed and I think are in  
24 attendance this morning, and I have had a chance to  
25 speak with some of them and as a matter of courtesy I  
26 had hoped to start with the remissions this morning,  
27 but Mr. Carton is available to give evidence and the  
28 Board are available to present their evidence on the  
29 land deal. And I have spoken to representatives of the  
30 industry and I think they would just as soon have a feel



1 of the Committee and see how it works before they start  
2 on their presentation.

3 I may also say that I have arranged with  
4 the Department, with the Works Department or wherever  
5 it is that the Temagami Room in this building can be  
6 available to them and if they want to meet with their  
7 witnesses or get their documents ready, and also that  
8 Mr. Richardson could possibly arrange for photostats  
9 if anyone may want copies of documents later.

10 With your permission I am going to ask  
11 Mr. Carton ---

12 THE CHAIRMAN: Are the members of the  
13 representing industries here aware of the Temagami Room  
14 being available?

15 A SPEAKER: Yes, we are, Mr. Chairman.

16 MR. DONNELLY: I might also say too that  
17 Mr. Singer earlier indicated some interest in the land  
18 deal and I would rather ask him if he would defer his  
19 questions if that issue arose, and I did phone him this  
20 morning about 7:30 to tell him that I thought we would  
21 start the land deal at 10:00 o'clock so I expect he  
22 will probably be along, sir.

23 GORDON CARTON, called:

24 MR. DONNELLY: Mr. Carton, please.

25 THE WITNESS: Mr. Chairman, members of  
26 the Committee, the question of the land transaction at  
27 the corner of Bloor and Yonge and its being directed  
28 through me to Cabinet for recommendation is the cause  
29 and Order-In-Council is required in the event that there  
30 is a sale or a purchase of real property. If it was



1 just a question of leasing or a question of investing,  
2 the Workmen's Compensation Board has this power. So it  
3 came to me by virtue of the -- two facts; one, the  
4 sale of the second property, and (2) the purchase of a  
5 leasehold interest in the property at Bloor and Yonge.

6 To give some background, firstly, the  
7 Workmen's Compensation Board -- may I preface my remarks  
8 by saying that every scrap of material that I have here  
9 this morning was in my hands at the time that I made my  
10 recommendation to Cabinet. I had gone into this matter  
11 quite extensively; I had spoken to each of the members  
12 of the Workmen's Compensation Board individually and as  
13 well as the Executive General Manager. In addition this  
14 was a decision of the Workmen's Compensation Board  
15 sitting as a Board and received unanimous approval.

16 The Workmen's Compensation Board had been  
17 in the present building some 19 years and during this  
18 time the economy has expanded remarkably; industrial  
19 growth has been rapid and there have been extensions of  
20 service by the Workmen's Compensation Board since they  
21 first occupied this building, namely, the retail shops  
22 and farming have been added. They were not part of the  
23 Board operations at that time. The volume has increased  
24 threefold and the Board utilized every modern technique  
25 that they could to maximize their space, and as an  
26 indication of this in the last ten years the composite  
27 volumes increased 126% whereas there was an increase in  
28 staff of some 13%. There was consideration given to  
29 the possibility of adding to the possible building at  
30 90 Harbour. Studies of construction piling and weight



1 limits established at the present location, that is, at  
2 90 Harbour could not be expanded to reach the Board  
3 requirements. The staff density poses heat and air  
4 conditioning problems.

5 Having established that there was a need  
6 to move, and as I say, I spoke to each of the members  
7 individually regarding this particular problem, the need  
8 to move, then one goes to the problem as to where to  
9 move. I might state that the Workmen's Compensation  
10 Act, Section 67,

11 "The offices of the Board shall be  
12 situated in the City of Toronto and  
13 its sittings shall be held there."

14 Originally I suppose the statutory requirement was due  
15 to Toronto being the capital city, but today it is  
16 much more essential because of the massive concentration  
17 of industry and workers within a 30 mile radius of  
18 downtown Toronto and its focal roles in Ontario's  
19 transportation systems. As an example, of 400,000 claims,  
20 one-third are from York County. There are over 21,000  
21 employers in Toronto alone, and in 1968 settled claims  
22 92,603 there were 35,406 from York County as compared  
23 for example to 2254 in Halton County or 722 in  
24 Peterborough County. I mention these because if one  
25 were going to move out of Toronto this might be where  
26 one might locate.

27 On the medical side the head office  
28 medical officers annually conduct 1146 client's medical  
29 examinations. There are 7200 pension examinations and  
30 1510 chest examinations for miners' employment certificates.





1 Experience has shown it is best and where there is  
2 proper x-ray equipment and where Ontario's leading  
3 medical consultants are available. Five thousand  
4 workers are admitted annually to the hospital and  
5 rehabilitation centre and many of these are admitted  
6 following examination in Toronto at the request of  
7 the attending physicians.

8 On a day to day operation in 1970 there  
9 were approximately 22,500 visitors to the Head Office.  
10 There are an average of 3,000 phone calls daily, 75%  
11 of them. During 1968 claims visitors rose from 43 a  
12 day to 239 per day. During the three week mail strike  
13 1642 cheques were given out over the counter. The  
14 appeal tribunal will hear appeals in any major city  
15 of the province, but in 1970, 927 of the 1210 were  
16 held in Toronto at the request of those attending. In  
17 addition there are other factors such as the computer  
18 operation and the back-up staff for that kind of thing.  
19 So I understand Mr. Hamilton will be taking the stand a  
20 little later and perhaps some of the more -- some of the  
21 finer detail can be obtained from Mr. Hamilton on some  
22 of the things I have stated.

23 Another thing that I had done because I  
24 felt it was important was to have the present office  
25 accommodations costs analyzed: in other words, we own  
26 the building at 90 Harbour Street and I received a  
27 statement based on the expenditures for the year 1971;  
28 I will not go over those item by item; they are available  
29 here. But the total expenditures for the year 1971 --  
30 bear in mind we own the property at that location -- were



1 \$936,900.00 and there is a total working area of  
2 115,164 square feet so the annual cost per square foot  
3 insofar as our present operations are concerned are  
4 \$8.14.

5 MR. DONNELLY: Could that document be  
6 filed now, Mr. Carton, to be convenient?

7 THE WITNESS: Yes. The Board in determining  
8 where they would be relocated set up certain criteria  
9 which they presented to me. I have a copy of them here.  
10 The criteria are divided into certain aspects and I will  
11 deal firstly with the financial criteria.

12 1. A developer must be prepared to  
13 purchase the Board's present land and building at a  
14 price approximating current value to insure an equitable  
15 return on the Board's 1953 investment by today's  
16 valuations.

17 2. An opportunity should be provided for  
18 the Board to invest in the / <sup>mortgaging</sup> of the development  
19 to provide both security of tenancy and a useful and  
20 secure investment of funds at a high rate of return.

21 3. The Board shall have the opportunity  
22 to own the land in toto or in part on which the develop-  
23 ment is constructed as a further security and financial  
24 advantage.

25 4. The rental rate for new accommodation  
26 must be competitive and must recognize the value of  
27 the Board as a prime tenant.

28 5. Additional tangible allowances at  
29 optimum levels is required for incidental expenses such  
30 as partitioning, decorating, parking.



1                   6. The financial agreement should provide  
2 for additional space to be available to the Board at  
3 reasonable cost in future years.

4                   Those are the financial criteria.

5                   Next, the criteria for accommodation.

6                   The building must have sufficient space  
7 to meet our current needs estimated at a maximum of  
8 210,000 square feet and additional space for expansion  
9 in the next 20 years which is estimated at a further  
10 80,000 square feet.

11                   Because of the large computer complex  
12 the humidity, temperature and static electricity must  
13 be controlled. This will require first-class air  
14 conditioning and double glazed windows.

15                   Next, lighting should be at the 100 foot  
16 candle level in all works.

17                   Uniform modules are required for  
18 lighting, windows and power and telephone services to  
19 facilitate interior design planning.

20                   Considering the Board's organization  
21 structure, column-free floors of between 15,000 and 16,000  
22 square feet are desirable for best space utilization.

23                   Free access to the building by pedestrians  
24 and handicapped persons is essential. A safe location is re-  
25 quired for loading and unloading of vehicles including  
26 taxis and the Board's Rehabilitation Centre bus. Un-  
27 impeded freight pick-up and delivery services must be  
28 facilitated.

29                   Adequate parking space on the pay-for-use  
30 basis must be available for visitors and staff in



1 addition to sufficient parking space for the Board's  
2 own vehicles.

3 Next, location criteria.

4 The building must be so located as to  
5 provide optimum access by public transportation for staff  
6 and visitors.

7 The location must provide fast access to  
8 major automobile routes.

9 Access to rail, air and bus transportation  
10 facilities must be provided.

11 The location must be prominent and easy  
12 to find for persons unfamiliar with the Toronto core.

13 The location must provide sufficient  
14 cafeteria and/or restaurant facilities on an immediately  
15 available basis to accommodate the Board's 1,600 staff,  
16 with the probability of additional facilities in the  
17 future.

18 Banking facilities immediately adjacent  
19 to the Board's premises are desirable, particularly those  
20 banks with which the Board conducts the major proportion  
21 of its business.

22 There were eight proposals made and the  
23 following submitted proposals:

24 Fidinam Ontario, 2 Bloor Street East

25 City Parking Holdings, Limited, 88 King  
Street East

26 Great Northern Capital Corporation, Limited,  
27 Dundas Street West at Chestnut.

28 Olympia and York, University Avenue  
at Wellington

29 Hammerson Property Corporation, Limited,  
30 40 University Avenue.





Cadillac Commercial Properties, Bay  
Street at Charles

Harbour Square, Bregman and Hamann,  
Corner Bay and Harbour Streets.

Metro Centre Development, Front Street  
at Simcoe

The last four proposals were excluded  
from further consideration for the reasons listed below:  
and I will do them item by item.

Hammerson Property Corporation Limited.

The site at 40 University Avenue with a total rentable  
area of 232,378 square feet would not provide adequately  
for future growth. The proposal did not provide any  
consideration for the Board's present premises. The  
site location and facilities are not optimum. In other  
words, they would not purchase the Board's present  
premises and the site location and facilities were not  
optimum.



1 Cadillac Commercial Properties were excluded  
2 from further consideration because their development at  
3 Bay and Charles Street is unsuitable. The former is  
4 27,000 square feet and too large for sufficient space  
5 utilization by the Board. The developer, Cadillac, was  
6 not prepared to purchase the Board's present premises as  
7 part of the transaction. The rental rate, \$7.75 per square  
8 foot, is too high. Public transportation access is less  
9 desirable than at other locations.

10 The next one that was excluded for further  
11 consideration was Harbour Square and, while basic plans  
12 for a building which may eventually form part of Harbour  
13 Square were presented, the developers could not present  
14 a specific plan in terms of cost, rental or purchase of  
15 the Board's present premises. No commitment could be made  
16 as to the overall development of Harbour Square nor could  
17 a starting date be given.

18 The Metro Centre Development, while long  
19 term plans for Metro Centre were reviewed, no specific  
20 plan was presented for the Board. The site proposed at  
21 Front and Centre Streets in this area of the existing  
22 C.N. Express yards is not a prime location and has no  
23 immediate transportation facilities. No financial proposal  
24 was made nor could the developer make any commitment con-  
25 cerning the Board's existing premises.

26 This then left four proposals which were  
27 examined in detail. The four proposals were Fidinam  
28 Ontario at 2 Bloor Street East; City Parking Holdings  
29 Limited, 88 King Street East; Great Northern Capital  
30 Corporation Limited, Dundas Street at Chestnut and



1 Olympia and York, University Avenue at Wellington.

2 I have a comparison chart which I will deal  
3 with in a moment or two, but having considered the com-  
4 parative merits of all four developers against the Board's  
5 criteria, it was considered that the Fidnam Ontario  
6 Development at the northeast corner of Yonge and Bloor was  
7 the best future location for the Ontario Workmen's  
8 Compensation Board and the following comments contrasted  
9 the Fidnam development with the other three and demon-  
10 strated the overall superiority.

11 On the financial considerations, Fidnam  
12 Ontario offered three and one-half million dollars for the  
13 Board's existing premises. The second highest bid was  
14 three and one-quarter million dollars from City Parking  
15 Holdings Limited. Fidnam offers an opportunity to invest  
16 fifteen million dollars in a mortgage on the investment,  
17 first mortgage at 10% interest for 35 years. Great Northern  
18 Capital Corporation proposal is for investment of ten  
19 and one-half million dollars at 9½% for 30 years. City  
20 Parking proposed twelve million at 9% for 35 years while  
21 Olympia and York were not prepared to permit investment.

22 Fidnam offered the Board an opportunity  
23 to purchase 56,000 square feet of land under the develop-  
24 ment, under a rent back basis, with an annual return of  
25 \$476,000. Great Northern Capital offered 48,000 square  
26 feet with a return of \$252,000, while the other two  
27 developers were not prepared to permit the Board to invest  
28 in the land on which their development would stand.

29 Fidnam's rental rate is \$7.00 per square  
30 foot, is \$0.05 higher than City Parking, Great Northern,



and \$0.30 higher than Olympia and York; however, they offer 6,750 square feet of space at \$3.00 per square foot for storage which more than offsets.

In addition, Fidinam offers \$36,000. for finishing and 30 free parking stalls for Board vehicles. By contrast, City Parking offered 50 free parking stalls, while the other two developers offered no incentives.

On the location consideration the Fidinam development is superior to the other three. It is a large development at one of the most well-known and important intersections in Toronto. It has excellent access both by public and private transportation. The east-west and north-south subways can be accessed from within the complex which will also house excellent cafeteria, restaurant and banking facilities. Vehicle access from the Don Valley Parkway is excellent and the complex contains substantial parking space and excellent loading and unloading facilities. None of the other three have such a multiplicity of location advantages.

On accommodation considerations, Fidinam is again superior to the other three and meets all the Board's criteria. It is a first class accommodation by all modern standards and the proposed rental recognizes the value of the Board as a prime tenant.

City Parking Holdings' proposed building on King Street East is a single building with limited parking facilities, and the Board would be dependent to a large extent on outside restaurant services. Its most significant disadvantage is the absence of double glazing which may result in humidity, temperature and static electricity





1 control difficulties.

2           The Great Northern development in Chinatown  
3 plans for 11,000 square foot areas on each of its upper  
4 floors and this is well below the Board's criteria for  
5 optimum benefit in departmental groupings and inter-  
6 departmental travel.

7           Olympia and York, by contrast, at 22,000  
8 square feet per floor and with 85 foot candle lighting  
9 would not satisfy the Board's criteria.

10           These were the considerations that were  
11 determined by the Board.

12           There is a detailed analysis of the four  
13 proposals under financial consideration, building character-  
14 istics, site location and comparative costs. On the rental,  
15 Fidinam Ontario for 210,000 square feet, \$7.00 per square  
16 foot less 6,750 square feet at \$3.00. There would be a  
17 finishing allowance of \$250,000. and parking for 30 vehicles.

18           City Parking Holdings was \$6.95 per square  
19 foot, no allowance or special allowance for storage space  
20 and no allowance for finishing or no allowances for parking.

21           Great Northern Capital Corporation Limited,  
22 the basic rental \$6.75 per square foot; there were no  
23 allowances for finishing; there were allowances for 50  
24 vehicles.

25           Olympia and York, \$6.95 per square foot,  
26 no allowances for finishing and no allowances for parking.  
27 And again I would point out that the respective rentals,  
28 just to recap, were \$7.00 for Fidinam, \$6.95 for City  
29 Parking, \$6.75 for Great Northern, \$6.95 for Olympia and  
30 York but Fidinam would rent 6,750 square feet for storage



space at \$3.00 per square foot.

Investment-wise, Fidinam offered a first mortgage investment of fifteen million dollars at 10%; City Parking Holdings, twelve million dollars at 9%; Great Northern Capital, ten and a half million at 9½%; and Olympia and York would not offer the opportunity to invest by way of first mortgage.

On the land criteria, Fidinam offered 6,500 square feet; City Parking Holdings no opportunity to purchase part of the land; Great Northern Capital offered the opportunity to purchase 48,000 square feet and Olympia and York there was no opportunity to purchase part of the land on which the development would take place.

The purchase of 90 Harbour Street, Fidinam offered three and one-half million dollars; City Parking Holdings Limited, three and one-quarter million dollars; Great Northern Capital, three million, one hundred thousand dollars; Olympia and York, three million dollars.

The building characteristics: Fidinam Ontario is 520,000 square feet. We would occupy the 7th to the 20th floor, the floor sizes were 16,000 square feet; tinted double glaze windows; lighting, 100 foot candles; elevators, 15 high rise, 5 low rise, one freight; 750 stalls for parking; entrance, Asquith, Yonge or Bloor.

City Parking Holdings Limited, total building was 325,000 square feet. We would occupy from the 1st to the 14th floor, the floor sizes 16,000 square feet; the windows are tinted single glaze; the lighting is 100 foot candles; there are six elevators; and parking for 74 cars in total.



1           The Great Northern building is 292,000  
2 square feet in total; we would occupy the 1st to the  
3 18th floor and there is <sup>a</sup> floor size of 11,000 square feet  
4 and single glaze windows, and parking in total for 100  
5 and that's just not Workmen's Compensation, that's total  
6 parking.

7           And the Olympia and York, 352,000 square  
8 feet, 85 foot candle lighting, 120 car parking and that  
9 again is total.

10           On the site consideration, Fidinam, at Bloor  
11 and Yonge, as far as the T.T.C. is concerned, they have  
12 the east-west and the north-south subways, they have the  
13 Don Valley Parkway, there are subway facilities to the  
14 station; there are five to ten restaurants in the complex;  
15 there are hotels in the complex; and there are two banks  
16 in the complex.

17           On City Parking Holdings Limited, their  
18 location is at King and Church; the north-south subway is  
19 two blocks; there is a streetcar in front. They have  
20 access to the Gardiner Expressway; there are restaurants  
21 on the ground floor and there is a hotel nearby, the  
22 King Edward.

23           On Great Northern Capital, their location  
24 is at Dundas and Chestnut; the subway is one block away;  
25 they have access to the Gardiner Expressway; there is a  
26 Holiday Inn planned for that area and there are two banks.

27           The Olympia and York at University and  
28 Wellington, they are one block away from the subway; there  
29 is a streetcar at King Street and there is a restaurant on  
30 the site and, of course, hotel accommodation close.



On a comparative cost the net rental cost for Fidinam, and this is the net rental cost, and bear this in mind, because you will be coming down to the net annual leasing cost which is an important figure, but the net rental cost for Fidinam was \$1,443,000.; City Parking, \$1,459,500.; for Great Northern, \$1,417,000.; and for Olympia and York, \$1,459,500.

When the allowances are taken under consideration such as parking, partitioning, profit on the mortgage investment and profit on the land investment, the net annual leasing cost relating to Fidinam is \$636,000.; the net annual leasing cost for City Parking is \$1,248,250.; and the net annual leasing cost for Great Northern is \$999,500.; for Olympia and York, \$1,459,500.





1                   Insofar as the financial participation is  
2 concerned the financial participation that was offered  
3 by Fidnam was examined from the point of view of an  
4 investor. The lessee would likely have reasons other  
5 than investment income for putting money into this type  
6 of situation, but such considerations were not taken into  
7 account in this study.

8                   The developer is prepared to borrow  
9 approximately 15 million dollars on a 35 year amortization  
10 at an interest rate of 15%. At this time of year a  
11 Governmental Bond is approximately 7-1/2%. Mortgage  
12 interest rates vary from 8-3/4 for N.H.A. insured loans  
13 to 9-3/4% for conventional mortgages.

14                   The interest rate offered by Fidnam is  
15 obviously among the highest available on the investments  
16 eligible for the purposes of the Workmen's Compensation  
17 Board. Since it is understood that the prime tenant  
18 will be an international firm with an excellent financial  
19 rating the quality of the investment is also assured.  
20 In addition to good yield and quality over the  
21 35 year amortization period, there is also an opportunity  
22 to purchase 56,000 square feet Freehold land at a price  
23 of \$100 per square foot. The land sale is subject to  
24 the provision that the Board will lease it back to the  
25 developer for 100 years at a net rental equivalent to  
26 8-1/2% of the purchase price. The rental is subject to  
27 review in the 40th and 56th years. In view of the  
28 current cost of comparable land and the history of  
29 depreciation of these land values this proposal is  
30 particularly attractive. Current valuations for such



1 property average \$125 per square foot. Since 1969 land  
2 in this category has increased to \$165 per square foot.  
3 The rent from 8-1/2% is in itself a good rate return  
4 and when viewed in conjunction with the probability of  
5 substantial capital gain this investment is attractive.

6 One of the matters that concerned me  
7 with regard to the building at 90 Harbour was whether or  
8 not we had obtained the best price. Now bear in mind  
9 that through the 3-1/2 one million dollars was the  
10 price offered by Fidnam. The other main contender,  
11 one offered between 1/4 million, one three million dollars  
12 and one did not submit an offer. When I spoke to the  
13 principal of Fidnam, I had never met the gentleman --  
14 I had him to my office on the first floor of Queen's  
15 Park in the Legislative Building and I asked him if it  
16 were possible to get an extension in view of the fact  
17 that a purchaser might come along and would offer  
18 more although I felt that we had obtained the best price  
19 and we were assured by many of the companies that had  
20 examined this property and had given us appraisals on  
21 it that we had obtained an excellent price. We wanted  
22 1/2 million dollars. Notwithstanding this I obtained an  
23 option from the developer so that if we were able to  
24 obtain within the year a better price then we had the  
25 option to sell to any other purchaser.

26 Insofar as the investment was concerned  
27 and insofar as the purchase of the Freehold land, the  
28 part -- the 56,000 square feet were concerned -- I have  
29 a rather inquiring mind and I wondered whether perhaps  
30 these were the determining factors insofar as Fidnam



1 were concerned. I was assured that insofar as they were  
2 concerned that if the Board did not want to invest the  
3 15 million dollars or if they did not want to purchase  
4 the 56,000 square feet this would not hinder the trans-  
5 action with Fidinam. In other words, these were an-  
6 cillary matters as far as they were concerned; they were  
7 taken into consideration by Fidinam and the other  
8 developers because of the Board's criteria when they set  
9 out these factors. So therefore it was of itself if one  
10 wanted to put it in that way on a straight rental basis  
11 and again Fidinam was superior in every way. On the  
12 basis of this information I made my submission to  
13 Cabinet and the Cabinet Order-in-Council was passed.

14 I have the Fidinam submission in detail  
15 here and the submission was made by them at the time, and  
16 it is quite lengthy, Mr. Chairman. If anyone would like  
17 me to go through this complete submission by Fidinam  
18 I am more than prepared to, sir.

19 MR. DONNELLY: Would it be possible to  
20 file that, Mr. Carton?

21 THE WITNESS: Yes.

22 MR. DEANS: Is it possible to file all  
23 the documents that he was reading from?

24 MR. DONNELLY: Is it possible to file the  
25 documents that were used in your presentation?

26 THE WITNESS: Yes.

27 MR. DONNELLY: Q. It would be very  
28 difficult to follow all the detail without them.

29 A. Those are in detail. I would be  
30 glad to answer any general questions on these.



THE CHAIRMAN: Mr. Carton, in filing those documents would you arrange them in the order in which you gave them? I think that would be helpful.

EXHIBIT NO. 75: Inter-Departmental Communication to  
Mr. A.G. MacDonald from Mr. K. B.  
Harding, dated March 26, 1971.





1 EXHIBIT NO. 76: Copy of "Comparative Costs For Pro-  
2 posals on Board Accommodation Based  
3 on Annual Expenditures."

4 MR. DONNELLY: Q. Does that complete your  
5 statements, sir?

6 A. Yes, it does, Mr. Donnelly.

7 I might add, Mr. Chairman, and I neglected  
8 to, the Hansard I referred to was Tuesday, June 15, 1971  
9 and at the outset of the estimates that part relating to  
10 the Workmen's Compensation Board, it was asked if they  
11 could go into the whole workings of the Workmen's  
12 Compensation Board. The exact words were, "If there are  
13 problems at least with the Chairman  
14 of the Board..."

15 This was all gone into in some length during my estimates  
16 last year.

17 Q. When was that, sir, the date; I'm  
18 sorry?

19 A. That was June the 15th, Tuesday,  
20 June the 15th. So for three days the Workmen's Comp-  
21 ensation Board appeared before the estimates committee last  
22 year.

23 MR. DEANS: On a point of order, the matter  
24 we are discussing at the moment has nothing to do with  
25 it?

26 THE WITNESS: No, I am talking about the  
27 competency of the Board and my judgment of the Board  
28 based on the estimates and their appearance at the  
29 estimates.

30 MR. DONNELLY: Mr. Carton, there are a  
couple of things I would like to ask you and probably



1 everyone knows the answer except me. Just on the  
2 question of this parking in the Fidnam transaction, is  
3 it 50 spaces that you spoke of there?

4 A. I have given my material to ---

5 Q. Tell me, was that for persons in the  
6 employ of the Board -- I am wondering about the public  
7 or solicitors from Goderich that come down?

8 A. This would be for the members of the  
9 Board, but Mr. Hamilton can go into some of these matters  
10 that would be available to the Board, Mr. Donnelly, free,  
11 whatever the utilization would be would be at the  
12 determination of the Board.

13 Q. There is one other thing I just  
14 don't picture, sir. You would own part of the land?

15 A. Yes.

16 Q. Is that part of the land the building  
17 sits on or how is that done?

18 A. That is part of the development up  
19 there. There is a meets and bounds description and it  
20 is part of the whole development.

21 Q. Is that available or could it be  
22 filed?

23 A. The meets and bounds description?

24 Q. Yes.

25 A. I do not have that here. I would  
26 imagine it is available.

27 Q. It could be obtained, though?

28 A. Yes.

29 Q. Sir, when this matter was dealt with  
30 in the Legislature I think on the 17th of March the quest-



1 ion was raised whether the management consultant studies  
2 that determined the location could be filed; is there  
3 anything further that could be filed in that regard?

4 A. It wasn't the management -- I think  
5 there is a narrower there -- it isn't the management  
6 consultants relevant to the new location, it is the  
7 management consultants that they had on that determined  
8 they could not in fact move and that in fact they could  
9 not build.

10 Q. I think there was some question  
11 raised ---

12 A. Or add to the building down at 90  
13 Harbour Street.

14 Q. There was some question raised whether  
15 there was a map and an analysis of the flow of claimants  
16 from outside of Metro. Is there anything to be filed in  
17 that regard?

18 A. That material -- the figures are in  
19 the information that I gave and whether or not they are  
20 available I am sure they could be provided by the Workmen's  
21 Compensation Board.

22 MR. DONNELLY: All right, thank you very  
23 much.

24 THE CHAIRMAN: Mr. Good?

25 MR. GOOD: The first thing I would like  
26 to know, Mr. Carton, is why the great secrecy involved  
27 around the fact that you were moving and nothing was  
28 released publicly until the Order-in-Council passed  
29 last October 17th or somewhere around that time? You  
30 said 21st when the Order-in-Council was passed and that



1 was the first knowledge that anyone outside of the Board  
2 itself knew the fact the deal had been made and it wasn't  
3 until December, I believe, that the Order-in-Council came  
4 to light and even then for the first few days no one  
5 would say anything about it. Now what caused all this  
6 great secrecy about this deal?

7 THE WITNESS: Well, as far as I am concern-  
8 ed, Mr. Good, there was no secrecy. Any time that you  
9 have several people bidding on a particular job I am  
10 sure that there just isn't any secrecy. I am not aware  
11 of any secrecy and of course I don't prepare the Orders-  
12 in-Council.

13 MR. GOOD: But Fidnam knew in July that  
14 the deal had been closed with the Workmen's Compensation  
15 Board and your own people said that the approval had  
16 been given last April the 6th, 1971.

17 THE WITNESS: No, the approval was not  
18 given in April and that is for certain. This matter  
19 was brought to Cabinet on two different occasions and I  
20 would say that your latter statement insofar as knowing  
21 in July is concerned, I would say that is correct.

22 MR. GOOD: You would say what?

23 THE WITNESS: They would know in July,  
24 Fidnam would know in July, that is when I -- I took it  
25 to Cabinet in June and, as I say, I did not prepare the  
26 Order-in-Council.

27 MR. GOOD: But as I say, the Workmen's  
28 Compensation Board knew they were moving last spring and  
29 they knew that the deal was closing with -- according to  
30 our information it was finalized in June of '71 and,





1 "Mr. T.E. Hallam (Manager of Planning,  
2 W.C.B.) advised our office that the  
3 decision to relocate had been finalized  
4 as early as April of 1971..."

5 THE WITNESS: I think he means finalized  
6 by the Workmen's Compensation Board in April.

7 MR. GOOD: Yes, finalized by the Board.

8 THE WITNESS: Yes.

9 MR. GOOD: And a letter from Fidinam to  
10 the City of Toronto regarding the development itself  
11 stated that, "...\$50 million development for the  
12 north-east corner of Yonge and Bloor  
13 Sts. in Toronto...we have successfully  
14 negotiated ground leases with the  
15 municipality of Metropolitan Toronto  
16 and the Royal Bank of Canada for their  
17 lands. Despite a very difficult  
18 money market, we have arranged long-  
19 term financing for this project...  
20 our biggest problem was to secure a  
21 major tenant for the development and  
22 this we achieved this month."

23 Now, their development was going ahead  
24 and their big problem appeared to be to get a tenant  
25 according to Mr. Saunderson -- was it him that you met  
26 in your office?

27 THE WITNESS: I met Mr. Saunderson; but on  
28 the matter of a tenant, Mr. Good, I am not familiar with  
29 the entire comments. There is a hotel there I understand  
30 and this would be a major tenant. It may have been that



1 major tenant to whom he was referring. I have no knowledge  
2 to know what happened with the hotel or the tenancy.

3 MR. GOOD: But if you took the deal to  
4 Cabinet in June, and you must have had approval at that  
5 time although the order wasn't passed for some months  
6 later, and all evidence points to the fact that it was  
7 known months before the Order-in-Council was just brought  
8 to light publicly by a newspaper reporter of the Toronto  
9 Star. Why wouldn't the Board announce with fanfare  
10 something of this equally as much as any other government  
11 move to new offices which has been announced over the  
12 years?

13 THE WITNESS: Well, firstly, if you will  
14 recall, I had to negotiate the option after this had  
15 been to Cabinet; I had to re-negotiate the option or  
16 negotiate the option on 90 Harbour Street because they  
17 were concerned whether or not if a subsequent purchaser  
18 came along the position it would put them in.

19 MR. GOOD: That wouldn't affect your deal  
20 with Fidinam on your new ---

21 THE WITNESS: Yes, it would, because  
22 Cabinet were firm on this, they wanted the option to sell  
23 to a subsequent purchaser if they could obtain a better  
24 price. This was Cabinet's instructions to me.  
25  
26  
27  
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1 MR. GOOD: By getting that offer, did  
2 that change your original deal with Fidnam?

3 THE WITNESS: It made it better. Because  
4 we had \$3,500,000.00 and if we could get more we would.

5 MR. GOOD: In fact the terms of your  
6 original deal did not change. In other words the  
7 Government or you acquired an additional benefit so what  
8 I am saying, the original deal was still in fact intact  
9 and approved as early as a year ago almost?

10 THE WITNESS: Yes, but bear in mind I  
11 still had to go to Fidnam to get the option; I just  
12 couldn't tell Cabinet that I had the option; I had to  
13 go and ask Fidnam if they would give us this option.

14 MR. GOOD: Well you haven't answered  
15 really why there wasn't an earlier announcement about the  
16 fact that a deal of this proportion, a deal which  
17 apparently now you feel is so excellent and ---

18 THE WITNESS: I always felt it was an  
19 excellent deal.

20 MR. GOOD: But I don't feel that Government  
21 at any time is hesitant announcing deals and facts in  
22 which they have negotiated which they think are great  
23 and fine achievements, and this, being as you have  
24 explained it today, in your mind a very excellent deal,  
25 why weren't they anxious to announce this to the people  
26 that the Workmen's Compensation Board was moving to a  
27 larger and more adequate premises? Did you feel there  
28 might be some public reaction to this?

29 THE WITNESS: No, I am not one that is  
30 given frankly to making big public announcements of



1 anything that I may be involved in and perhaps it is  
2 my fault for not making big public announcements. I  
3 don't necessarily believe in them in things like this.

4 MR. GOOD: Well, could it be perhaps  
5 because of the election last fall would have deterred  
6 the Government to announcing this prior to election  
7 time?

8 THE WITNESS: I think it would have been  
9 a plus.

10 MR. GOOD: Well it would have been a plus  
11 then, and I am sure you used any other method that was  
12 available to you. Why wouldn't you have used that  
13 and indicate that the Workmen's Compensation Board is  
14 investing \$15,000,000.00 in a private development; don't  
15 you think that would have made great election news?

16 THE WITNESS: Yes, and I may get heck  
17 now for not using that.

18 MR. GOOD: I just can't understand why  
19 this was cloaked in such secrecy. Even when the Order-in-  
20 Council did come in light and Miss Barnes tried to  
21 contact you people, you refused to talk until a formal  
22 statement was made. People of the Workmen's Compensation  
23 Board were hesitant when our people phoned them about  
24 the thing, and they said, "we can't talk until we get  
25 authorization," and this is the whole story of the deal;  
26 it looked to me as though you were trying to hide  
27 something rather than let the people in on this great  
28 big wonderful deal.  
29  
30





1 THE WITNESS: I don't recall speaking to  
2 Miss Barnes.

3 MR. GOOD: Well I just have her word  
4 that that is what happened.

5 Well you mention about the 10% interest  
6 rate and you mentioned the N.H.A. mortgage which is  
7 8-3/4 and 9-1/4%. Now, Mr. Carton, you know that those  
8 are residential property mortgage rates and have no  
9 relation to the interest that one would get investing  
10 in a commercial enterprise of this nature. Don't you  
11 think that was a little bit -- a rather bad comparison?

12 THE WITNESS: Well, I was reading from  
13 the Workmen's Compensation statement, but let me put  
14 it this way: when you view the fact that the other  
15 bidders were only prepared to offer in one case 9%  
16 and in the other case 9-1/2%, and much lesser sums of  
17 money on a much shorter term, I don't think anyone can  
18 quarrel with the fact that this is an excellent investment  
19 on a first-class property and to my knowledge, and I  
20 could be wrong, but to my knowledge the investment  
21 competency of the Workmen's Compensation Board has never  
22 been questioned.

23 MR. GOOD: This is what I wanted to ask  
24 you about. Can you enlighten myself, and I don't know,  
25 probably some other members of the Committee, as to  
26 what restrictions or under what regulations or rules  
27 the Board comes under when they are investing their  
28 surplus funds? They are apparently not governed by the  
29 normal trust ---

30 THE WITNESS: They have their own



1 restrictions imposed by the Legislature.

2 MR. GOOD: Under the Trustee Act?

3 THE WITNESS: Under the Trustee Act.

4 All I know is they would not have had to come to us on  
5 a first mortgage investment. They were at liberty to  
6 make this investment on their own.

7 MR. GOOD: And they are at liberty to  
8 invest in land and mortgages; is that correct?

9 Well that certainly isn't under the  
10 regular trustee investment.

11 THE WITNESS: Perhaps Mr. Hamilton can  
12 enlighten you on that.

13 THE CHAIRMAN: Perhaps, Mr. Good, that  
14 question would be best put to Mr. Hamilton or some other  
15 person at a later time.

16 THE WITNESS: Obviously there are some  
17 sophisticated investors who have funds in the Workmen's  
18 Compensation Board, and employers like the Canadian  
19 Manufacturers Association, I am sure a watchful eye is  
20 kept on the Workmen's Compensation Board from the  
21 outside by other people.

22 MR. GOOD: Do you know any other areas in  
23 Government -- I think we are spending now about  
24 \$25,000,000.00 a year on agreements, lease back agreements  
25 with other privately owned buildings in the province,  
26 and is there any time when an arm in the Government or  
27 the Government itself has helped finance a deal as well  
28 as becoming the major lessee of the development?

29 THE WITNESS: I can only answer for the  
30 Workmen's Compensation Board, Mr. Good.



1 MR. GOOD: Being a member of Cabinet you  
2 must know what goes on in Government.

3 THE WITNESS: I am not prone to making  
4 statements unless I know.

5 THE CHAIRMAN: Mr. Good, we are confining  
6 our discussions here to the land deal.

7 MR. GOOD: I think there is a relationship  
8 here between the manner in which this deal was made and  
9 how other lease back arrangements are made by Government.  
10 I think that is a proper question, isn't it?

11 THE CHAIRMAN: Well, perhaps if one  
12 wants to one can associate a relationship with almost  
13 anything.

14 MR. GOOD: This is right on target, Mr.  
15 Chairman, I say with respect.

16 THE WITNESS: I am not trying to dodge  
17 the question, Mr. Good, I just don't know, but this is  
18 perhaps a different body than most government boards  
19 and commissions because this is in fact an investing  
20 body, they get monies from the investing body and they  
21 invest their money in order that they may get the best  
22 return to pay for the claims. So it is a little  
23 different body from any others that I can think of.

24 MR. GOOD: Could you then provide this  
25 Committee with a portfolio of their investments of  
26 their reserve funds?

27 THE WITNESS: I am sure their controller  
28 could.

29 MR. GOOD: It would be available?

30 THE WITNESS: I am sure it would.



1 MR. GOOD: Perhaps it could be filed  
2 then, Mr. Chairman.

3 The pay-for-use parking, for those of  
4 us who go with injured workmen to be heard at the  
5 Board we will have to use parking. Do you know how  
6 much this will generate?

7 THE WITNESS: No, I don't.

8 MR. GOOD: And who will derive the  
9 revenue, the developer?

10 This detail hasn't been worked out, do  
11 you mean?

12 THE WITNESS: No, this is not a matter --  
13 I've given you a matter on which I've based my decision  
14 and as I said at the outset, the minor matter as to  
15 who pays for the parking space or who gets the revenue  
16 or not, what I was concerned about is that there was  
17 sufficient accommodation for the Workmen's Compensation  
18 Board for their criterias, that is point number one;  
19 point number two, that there were in fact spaces that  
20 people could go to and there are 750 spaces around this  
21 place as opposed to maybe 100 or 135 at the other place.

22 MR. GOOD: What I was trying to get at  
23 was that the parking provided for/Workmen's Compensation  
24 Board will be free parking and the public parking which  
25 will be used by visitors to the Board will be as you  
26 mentioned, pay-for-use parking?

27 THE WITNESS: Well, they have 30, yes.  
28 Well, whatever the figure is.

29 MR. GOOD: Well, one other question. You  
30 mentioned the rental rate per square foot at Fidinam at





1 \$7.00 a square foot. Is this the gross rental or is  
2 this figure after you figured the other benefits of  
3 interest on your mortgage and rent on the portion of  
4 the land?

5 THE WITNESS: That is the gross rental.  
6 Those figures are all in the material I filed.

7 MR. GOOD: That is the gross rental and  
8 then the other benefits accrue less the free parking?

9 THE WITNESS: The \$250,000.00, the free  
10 parking, the storage space, 6,000 and some square feet  
11 at \$3.00 per square foot, all these things are in the  
12 material I filed to come down to a net annual leasing  
13 cost. And bear in mind -- if I comment -- the submission  
14 that is not even in the same location as far as we  
15 are concerned was \$7.50, and this is \$7.00 and we took  
16 in the figure for storage and this is by far the best  
17 even on the gross figure.

18 MR. GOOD: I am informed there is nothing  
19 in the annual report, Mr. Minister, about the investment  
20 portfolio of the Board and so perhaps that information  
21 should be supplied to the Committee and you have still  
22 no -- what I consider a more reasonable or definite  
23 answer as to why this whole deal was cloaked in such  
24 secrecy and wasn't released in the Legislature last  
25 December, or wasn't even brought up or discussed in  
26 the operations of the Board last year when they were  
27 before Committee, and I find it most unusual that this  
28 was the case; that the information had to be more or  
29 less ferreted out before it became public.

30 I may have some other questions later



1 when I study this.

2 Thank you, Mr. Chairman.

3 THE CHAIRMAN: Thank you, Mr. Good.

4 I think the Board can make available to  
5 the Committee that portfolio and estimate for the use  
6 of Committee members.

7 Mr. Deans?

8 MR. DEANS: Thank you, Mr. Chairman.

9 I am not a financial expert or for that  
10 matter an expert in investments, so it is hard for me  
11 to tell whether it is a good deal. It looks great.

12 Let me ask you first of all about your  
13 Exhibit 73, the Office Accommodation Costs. I am not  
14 exactly clear what the first item is. It says "Interest  
15 on 3.5 million at 8%, \$280,000.00." What is that?

16 THE WITNESS: I don't have the  
17 figure in front of me. I imagine that would be the  
18 investment on the three and a half million dollars  
19 that the Workmen's Compensation Board would get when  
20 it was sold.

21 MR. DEANS: No, this I understand is the  
22 cost of operating 90 Harbour Street.

23 THE WITNESS: Yes, well they have three  
24 and a half million dollars invested at 90 Harbour Street  
25 now. If they did not -- in other words, that money is  
26 tied up.

27 MR. DEANS: It just strikes me that three  
28 and a half million that they use for their calculation  
29 is the same three and a half million that Fidinam uses  
30 for his valuation.



1 THE WITNESS: That is exactly the same  
2 figure.

3 MR. DEANS: And how did he arrive at that  
4 figure?

5 THE WITNESS: Because Fidinam offered  
6 three and a half million so therefore the Workmen's  
7 Compensation Board could say, "well we could get three  
8 and a half million and we have a firm offer for it and  
9 so therefore we use that figure.."

10 MR. DEANS: This was done after the  
11 Fidinam offer, this isn't something that is done on a  
12 year to year basis?

13 THE WITNESS: No, I asked for that because  
14 I was interested in trying to come out to a comparative  
15 analysis as to the present occupation where we own the  
16 building and we lease the building and what I was  
17 concerned about was the ultimate figure at the bottom  
18 there, where it shows \$8.14 per square feet where we  
19 own the building where we lease on a net annual lease  
20 at a cost of \$7.00.

21 MR. DEANS: Am I to assume that all the  
22 items outlined in this Office Accommodation Cost at  
23 90 Harbour Street add up to an annual cost per square  
24 foot of \$8.14, are considered in the calculation of  
25 the \$7.00 per square foot for the building, that each  
26 one, every single one of these items has been taken  
27 into consideration in the calculation of the comparable  
28 figure given for Bloor and Yonge?

29 THE WITNESS: No, what it is, Mr. Deans,  
30 that is a cost worked out on a per square foot basis on



1 the present occupation of 90 Harbour Street, bearing in  
2 mind that they are in fact the owners of the building;  
3 notwithstanding the fact they are owners you incur  
4 certain charges, certain expenditures and that is a  
5 statement of the expenditures for the year 1970, I  
6 think it is.

7 THE CHAIRMAN: Seventy-one.

8 THE WITNESS: Seventy-one, actual figures  
9 that are incurred and therefore relevant to <sup>the</sup> cost of  
10 them occupying a building which they own.

11 MR. DEANS: Now there must have been a  
12 calculation made then, a comparison calculation made on  
13 providing the same kinds of things, you know, insurance  
14 and water and housekeeping, garbage disposal, are all  
15 of those things included and other things?

16 THE WITNESS: They were all included.  
17 They were taken into consideration.

18 MR. DEANS: With salaries?

19 THE WITNESS: They were taken into consideration  
20 in the material I filed. For example there is a cafeteria  
21 filed -- I know you have been down to 90 Harbour Street  
22 and there are no accommodations for food in that area for  
23 half a mile either way so it is a very poor location  
24 and they have to have their own cafeteria. Whereas at  
25 Yonge and Bloor they will not, so therefore, as an  
26 example, the charges for the cafeteria ---

27 MR. DEANS: Who prepared the figures for  
28 the cafeteria?

29 THE WITNESS: I am not sure. Mr. Hamilton  
30 will be able to tell you.





1 MR. DEANS: I ask that for a very personal  
2 reason.

3 Could you tell me why it is -- and I asked  
4 about this in December and you could have made a  
5 statement of the kind that you made today and saved us  
6 all the aggravation.

7 THE WITNESS: Well I made the statement  
8 some two or three months ago, Mr. Deans. The reason I  
9 did not make the statement in December was that (a) I had  
10 another -- if I am not mistaken I had another portfolio  
11 at that time ---  
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1           One does have other duties besides going  
2 back many months in memory and I wanted to be sure I made  
3 a proper statement when I made it, it's as simple as that.  
4 I do not like to make statements unless I know exactly  
5 what I am talking about.

6           MR. DEANS: No, I can recall fairly clearly  
7 what you told me on the day that I raised it, that you  
8 had intentions of making a major statement about the whole  
9 matter and it had to be raised again in the Legislature  
10 before we finally got around ---

11           THE WITNESS: Yes, the other matter came  
12 out and it seemed to be a good vehicle for clearing this  
13 up as well.

14           MR. DEANS: Yes, it certainly is.

15           Do you know at all what the total cost of  
16 the building that is being erected is?

17           THE WITNESS: It is speculated at fifty  
18 million dollars in the press, as Mr. Good just said.

19           MR. DEANS: Fifty million? That is the  
20 building without land?

21           THE WITNESS: They call it a fifty million  
22 dollar development.

23           MR. DEANS: I assume that that includes the  
24 land costs.

25           The Board is putting up a fairly substantial  
26 amount of the financial requirements?

27           THE WITNESS: Fifteen million dollars.

28           MR. DEANS: Fifteen million plus the purchase  
29 of the land.

30           What becomes -- you say that this purchase



1 of the land which is rented back for 100 years and is to  
2 be open -- you say 40 years and 60 years, is it?

3 THE WITNESS: Yes.

4 MR. DEANS: What becomes of the thing if  
5 you can't agree on a price?

6 THE WITNESS: There are, as there would be  
7 in any legal document, there would be arbitration clauses.

8 MR. DEANS: There are arbitration clauses  
9 and we will get those documents?

10 THE WITNESS: Oh yes, we have -- I think it  
11 is fair to say, an eminent group of counsel looking after  
12 the matter.

13 MR. DEANS: You mentioned in passing you  
14 had never met Mr. Saunderson prior to the day that he  
15 entered the offer?

16 THE WITNESS: No, and never met him since.

17 MR. DEANS: He has quite a stake in things  
18 around here.

19 THE WITNESS: I might mention, Mr. Deans,  
20 relative to the substantial investment this was one of the  
21 main reasons I wanted to see him because, you know, when I  
22 at  
23 looked/ the figure of fifteen million dollars I wondered  
24 about other financing in the complex and that was my main  
25 purpose and perhaps the sole purpose of seeing him, Then  
26 when I looked at the comparative figures as to the leasing  
27 and all of the other factors concerned, I was concerned  
28 about the financing and he assured me that the Canadian  
National Investments are putting in thirty million dollars.

29 MR. DEANS: Thirty million?

30 THE WITNESS: Thirty million. So this I



1 felt was rather a good offer for the Workmen's Compensation  
2 Board.

3 MR. GOOD: Fidinam is a Swiss firm, is it  
4 not?

5 THE WITNESS: I am not sure of the structure,  
6 Mr. Good. They call it Fidinam Ontario Limited. I presume  
7 this would indicate -- this was an Ontario charter but I'm  
8 not certain of the background of the principal company.

9 MR. DEANS: I think you will appreciate,  
10 Mr. Carton, that's going to take just more than this half  
11 an hour for someone to look over all the documents. I  
12 need time to look at it.

13 THE WITNESS: I understand it. I was in  
14 the same position.

15 THE CHAIRMAN: Mr. Miller?

16 MR. MILLER: Mr. Carton, of course it is  
17 hard to impress on some of these gentlemen just how modest  
18 we are on our side of the House when we have some of these  
19 better deals going.

20 I assume that most of the criteria were set  
21 by the Workmen's Compensation Board and, in fact, most  
22 of the preliminary investigation done by them?

23 THE WITNESS: Yes, sir.

24 MR. MILLER: At which stage then did it  
25 reach you?

26 THE WITNESS: It reached me last spring and  
27 it would be in June when I took it to Cabinet. The stage  
28 at which it reached me was when the Workmen's Compensation  
29 Board unanimously, and I stress that, approved the purchase,  
30 and I had all of the material that I presently have subject





1 to perhaps the one that I requested concerning the present  
2 carrying charges at 90 Harbour Street, I think that was  
3 given to me later. But this detailed analysis, setting  
4 out the eight bidders, the reasons why the four were dropped  
5 and, again, the very detailed analysis of the various  
6 factors determining the last four and how the successful  
7 bidder, in their opinion, got the award, that was all  
8 available to me as Minister of Labour when it first came  
9 to my attention and I think, quite candidly, in fact. I  
10 know that there was some emergency because of the 10%  
11 figure. You know, if you can invest money or if you can  
12 borrow money at 9 or 9½ you are not going to hold yourself  
13 out in borrowing at 10% for many months.

14 MR. MILLER: One of the questions that was  
15 raised to me apart from -- brought to me out of the  
16 Committee was this: were all potential bidders given the  
17 same set of criteria, particularly in terms of location?

18 THE WITNESS: I was advised that they were,  
19 Mr. Miller.

20 MR. MILLER: Were any restrictions placed  
21 on location in advance that you know of?

22 THE WITNESS: Well, I can't answer that.  
23 I presume it would be Toronto, for example; that would be  
24 one restriction; because it is determined legislatively.

25 And then I think that the need time of  
26 three years was mentioned to me. In other words, they  
27 are at the turning point now, they are now at the bursting  
28 at the seams point now, and it was felt that the bidder  
29 would have to ensure to them that the move could be made  
30 within three years and this probably indirectly, Mr. Miller,



1 would affect the bidders to this extent, that, you know,  
2 they knew they had to own the land now in a prime location  
3 and to be able to complete in three years and this would  
4 have been one of the determining factors.

5 MR. MILLER: While we haven't seen the  
6 investment portfolio of the Board, questions were raised  
7 about the propriety of using these assets for mortgages.  
8 Do you know whether this has been the practice in the past,  
9 to invest in mortgages?

10 THE WITNESS: Well I think they do but I  
11 don't think it is certainly one of their prime investments;  
12 I think they may in certain cases but it certainly -- and  
13 only examination will prove but I think you will probably  
14 find it is probably a small part of their portfolio so  
15 far as, for example, residential or whatever are concerned.

16 MR. MILLER: Fine. I think those are all  
17 the questions, Mr. Chairman.

18 THE CHAIRMAN: Mr. Allan?

19 MR. ALLAN: Well, Mr. Chairman, Mr. Carton  
20 has given such a very full and excellent explanation of  
21 the whole proposal that it has become a deal, I find it  
22 very difficult to dream up something that would make an  
23 intelligent question.

24 But I just have one and very simple. How  
25 do you get your fifteen million dollars back; is it paid  
26 back over the period -- was it 30 or 35 years?

27 THE WITNESS: Thirty-five.

28 MR. ALLAN: Do you get it at the end of  
29 the 35?

30 THE WITNESS: No, it is paid back -- there



1 is a sale, a lease back and a financing agreement which  
2 sets out the detail, Mr. Allan.

3 MR. ALLAN: And is it paid back in equal  
4 payments over the period?

5 THE WITNESS: It would be amortized --  
6 it would be amortized but, again, I am not certain. Perhaps  
7 somebody else would be.

8 MR. ALLAN: It would be amortized and it  
9 would be a sinking fund and the money could be accumulated  
10 and you would get it at the end of the 35 years?

11 THE WITNESS: I think it is an ongoing  
12 investment.

13 MR. ALLAN: There is a payment of capital,  
14 the agreement would set out, but it isn't very often, you  
15 know, that you can have a security yourself as you have in  
16 this instance. If they don't pay the interest you don't  
17 pay the rent.

18 THE WITNESS: That's right.

19 MR. ALLAN: That was all, Mr. Chairman.

20 THE CHAIRMAN: Have you completed, Mr. Allan?  
21 Were there further questions from the  
22 Committee members?

23 Mr. Deans?

24 MR. DEANS: Was the investment handled  
25 entirely by the Board?

26 THE WITNESS: Is investment handled entirely?

27 MR. DEANS: No, in this instance, I mean are  
28 the investments in properties handled entirely through the  
29 Board or does it go through any outside agency -- how does  
30 the Board handle ---



1 THE WITNESS: They employ legal counsel  
2 outside.

3 MR. DEANS: Their own legal counsel?

4 THE WITNESS: Yes, they do.

5 MR. DEANS: At the Board, normal legal  
6 counsel?

7 THE WITNESS: No, they have an outside firm do  
8 these things that entirely specializes in this and I would  
9 recommend that quite candidly were I the minister because  
10 when you get into sales and leasebacks, With all due  
11 respect to the Board's solicitors, their prime concern  
12 would be with claims and that kind of law and not the  
13 specialized law that would be involved in this kind of  
14 transaction.

15 MR. DEANS: Then all of the transaction was  
16 handled by the solicitor?

17 THE WITNESS: It is and will be. It is  
18 an ongoing thing. There ~~are~~ some of these matters that  
19 have not yet been completed but it would be outside solicitors.

20 THE CHAIRMAN: Mr. Good?

21 MR. GOOD: For clarification, the fifteen  
22 million dollars is the mortgage. Now, the land is \$100.  
23 a square foot; was it 100,000 or 50,000 ---

24 THE WITNESS: I am going from memory but  
25 originally it was 56,000 feet at \$100. per square foot but  
26 I think it is now slightly in excess of 56,000 feet, around  
27 59,000 or 60,000 square feet but it is at \$100., yes.

28 MR. GOOD: That would be about six million  
29 dollars in land and fifteen million in building?

30 THE WITNESS: Bear in mind that the capital





1 appreciation would be one of the factors involved in this  
2 apart from the return of 8½%.

3 THE CHAIRMAN: Does that complete the  
4 questioning as far as Committee members are concerned?

5 THE WITNESS: Mr. Chairman, Mr. Hamilton  
6 is here and he can fill in -- perhaps Mr. Good wants a  
7 little more detail than perhaps I could have answered.

8 THE CHAIRMAN: Thank you, Mr. Carton. You  
9 are now excused and thank you for your contribution.

10 MR. DONNELLY: Mr. Hamilton, please.

11  
2 DOUGLAS HAMILTON, Recalled:

3  
4 MR. DONNELLY: Mr. Hamilton, you have  
5 already been sworn in these proceedings?

6 A. Yes, and I will take the oath again.

7 Q. You are still bound by your oath.  
8 You understand that, sir?

9 A. Yes.

10 Q. Do you wish to make a statement,  
11 Mr. Hamilton, relative to this matter?

12 A. Well, Mr. Chairman, the statement  
13 that I would now make would be very brief. I think  
14 Mr. Carton has brought to you all of the details of this  
15 transaction. I can only say on behalf of the Board that  
16 we think it is an excellent business transaction. All of  
17 the practices and procedures, business procedures were  
18 followed throughout and it was obvious to all that we had  
19 to find a new location from Harbour Street, we were crowded  
20 and it was necessary to move, and over long months of



1 negotiations and looking at this thing we came up with the  
2 proposition that Mr. Carton spelled out for you this  
3 morning and I can only say that we think it is a good  
4 business proposition on behalf of the Board and I am  
5 prepared to answer any questions that it is within my  
6 technical competence to do so for the Board. If not, I  
7 will make whatever information we have available to you.  
8 That is about all I can say because I think the detail  
9 has been put to you.

10 MR. DONNELLY: I have no questions of the  
11 witness.

12 THE CHAIRMAN: Mr. Miller?

13 MR. MILLER: One question that came to me  
14 as we were talking about this, Mr. Hamilton, is you have  
15 a lovely property up in Downsview on Highway 400?

16 THE WITNESS: Yes.

17 MR. MILLER: Was there any consideration  
18 given to amalgamating your offices with that location?  
19 What do you have to say?

20 THE WITNESS: Some, but not really, because  
21 it is completely out of the way from the public trans-  
22 portation point of view; it would be almost inaccessible  
23 for people coming in from out of town; it is inaccessible  
24 to the hospitals in the centre core; it is inaccessible to  
25 public transportation; and really we never gave it that  
26 much consideration. But if I were asked to make an opinion,  
27 I think it would have been very wrong to have gone out  
28 there to build a central office.

29 MR. MILLER: Now a couple of other questions  
30 that came to my mind after I was questioning Mr. Carton;



1 apart from this \$7.00 a square foot, what other standard  
2 charges are we faced with paying in this kind of a rental  
3 proposition? Taxes, are they extra?

4 THE WITNESS: No, we wouldn't pay the taxes.  
5 It is a normal commercial rental basis.

6 MR. MILLER: And insurance?

7 THE WITNESS: Well we have insurance,  
8 internal insurance, but not building insurance.

9 MR. MILLER: Nor heat?

10 THE WITNESS: Nor heat.

11 MR. MILLER: I was just looking at some of  
12 the evidence ---

13 THE WITNESS: This is what we have to look  
14 at. We have a property down at Harbour Street where you  
15 have lawns around it, parking lots around it, a large  
16 cafeteria, an old building, high upkeep costs and everything.  
17 when  
18 And you do away with these/you move into a modern office  
19 and I think our savings in total are estimated -- when you  
20 get the square footage, I think it was eight dollars and  
21 some odd cents a total against \$7.00, well that is -- if  
22 you take the square footage and work that out, simply  
23 moving from Harbour Street to these new quarters, we should  
24 save ourselves something like \$190,000. a year on rental  
25 costs alone. You see, you do away with these other things  
26 when you move into a building where your cleaning is done,  
27 your insurance is paid and your taxes are paid and so on,  
28 and you move into this kind of a tight compartment away  
29 from the sprawling thing that we have at Harbour Street,  
30 I think this is the answer to your question.

MR. MILLER: One set of figures given in



1 the analysis was the net annual lease cost and this, I  
2 think, was \$636,000. a year in the case of the Fidinam  
3 property.

4 I believe this allowed for the return on  
5 the investment of the fifteen million dollars and probably  
6 the six million dollars for the land.





1 THE WITNESS: The rental has nothing to  
2 do with the other and I want to make this clear with you;  
3 that really we haven't established the firm rental lease  
4 at the new building because we have a fluctuation on the  
5 number of square feet that we are really actually going  
6 to need or use and I think we have a minimum of 175,000  
7 square feet which we have agreed to take as a prime  
8 tenant and then a fluctuation up to about 210,000 square  
9 feet. Until we get all of our drawings done and our  
10 partitions, drawings done we won't really know whether  
11 we are going to use the 175,000 square feet or somewhere  
12 up to -- our estimates are about 210,000 as I understand  
13 them. Now as to our firm rental on that it's really  
14 not established as yet, but we are using estimates.

15 MR. MILLER: I was using the four sets  
16 of figures that were called net cost and those were  
17 called net leasing costs as after your allowance for  
18 investments in each case and I wonder if that was really  
19 a very fair basis of comparison since the money would  
20 have been available to invest elsewhere at other rates  
21 I would assume?

22 THE WITNESS: The financial expert on the  
23 Board is here, Mr. Thompson, who knows the financial  
24 ramifications of this because he did the studies on it  
25 and if you are prepared to let him answer that question  
26 he can when I leave the stand if that is all right with  
27 you, Mr. Chairman.

28 MR. MILLER: Those are all the questions  
29 I had, Mr. Chairman.

30 THE CHAIRMAN: Mr. Deans?



1 MR. DEANS: Mr. Hamilton, on the same  
2 point, and Mr. Ford may answer it -- Mr. Thompson is it  
3 that's going to answer?

4 THE WITNESS: Yes, he did the financial --

5 MR. DEANS: I might then direct a question  
6 -- the difference between what was called the net rental  
7 and the figure I have is 1,444,000.

8 THE WITNESS: What are you looking at now?

9 MR. DEANS: Well, I only took it down as  
10 it was being read out and it seems to me that at some  
11 point in the discussion in Mr. Carton's explanation he  
12 came to something called net rental.

13 MR. CARTON: Net annual leasing cost.

14 MR. DEANS: There are two figures, net  
15 annual rental and net annual leasing cost and the net  
16 rental figure given was, I think as I recall, 1,443,000  
17 for Fidnam and for the others it was something else.  
18 The net annual leasing cost which was given was \$636,000.  
19 Now it is on the basis of the net annual leasing cost  
20 that you have arrived at this \$7 per square foot; is that  
21 correct?

22 THE WITNESS: No.

23 MR. DEANS: No?

24 THE WITNESS: I don't know how Fidnam  
25 arrived -- Fidnam arrives at the \$7 a square foot. He  
26 says in his development that that is the calculated costs,  
27 the \$7 a square foot, that he will charge us as the prime  
28 tenant. It is a negotiated -- I don't know how he  
29 calculates his \$7 a square foot, but he arrives at that  
30 as a commercial rent which he negotiates with us.



1 MR. DEANS: Would that then be the figure  
2 that arrives at \$1,443,000 annually, the \$7 a square foot?

3 THE WITNESS: What I tried to explain a  
4 moment ago is that once you establish the square footage  
5 that you are going to use whether it is 175,000 square  
6 feet or what or the 200,000 square feet, it is at the  
7 \$7 a square foot regardless and that will determine the  
8 maximum rentals which we will pay.

9 MR. ALLAN: This looks as if it was  
10 figured on 210,000 square feet.

11 THE WITNESS: It may have been, Mr. Allan,  
12 because that is the maximum we were looking at.

13 MR. DEANS: We are talking when you take  
14 into account the investment return and whatever other  
15 considerations there are, we are talking about a differ-  
16 ence between the net rental given by Mr. Carton and the  
17 net leasing cost of some \$800,000 a year according to  
18 the figures that were given. Now, that \$800,000 a year  
19 is almost as much as the total cost of operating 90  
20 Harbour Street.

21 THE WITNESS: I wish you would ask Mr.  
22 Thompson that question because, as you see, it is in the  
23 realm of finance and I don't want to give you some wrong  
24 information.

25 MR. DEANS: Can you tell me how the calls  
26 were put out for the submissions on the new facilities?

27 THE WITNESS: Well there was no advertise-  
28 ment as such, but I think it was kind of a word of mouth  
29 arrangement because we were primarily interested in  
30 reasonably large developers who had blocks of land in the



1 central core of downtown Toronto, and when you take a  
2 look at it in that perspective it was confined. But I  
3 think in the course of this we had calls from about 30  
4 developers in total and explained our situation and most  
5 of them -- as Mr. Carton explained to you -- fell by the  
6 wayside until we had firmed it down to the main ones who  
7 had large blocks of land in downtown Toronto and were  
8 capable of doing this kind of development. To answer  
9 Mr. Good's question gratuitously, there was no secret as  
10 far as we were concerned -- this was going on since I --  
11 shortly after I went to the Board so it has been a year  
12 and a half that this has been kicked about. So the  
13 contractors and the developers and everybody were quite  
14 aware of it. So that is really how the development was---

15 MR. DEANS: I want to ask you a question  
16 perhaps facetiously, but do you ever wonder what you  
17 are expected to tell us and what things you just simply  
18 do as a matter of routine?

19 THE WITNESS: I didn't get your question.

20 MR. DEANS: You say there is no secret  
21 and I believe you, I don't suppose there was any secret,  
22 but I just wonder how you decide what things you tell  
23 the Committee, for example, when you appear before it  
24 at estimate time -- we don't know and we don't ask and  
25 we are not told and it would be -- if I can make the  
26 suggestion, that perhaps for future estimates where you  
27 are appearing before the Board and appearing before the  
28 Committee and this applies for any Crown corporation or  
29 arm of the government, it would be useful if they would  
30 give us a list of the major things they are undertaking





1 at that time so we wouldn't be reading in the paper --  
2 I think this is what happens and perhaps this is for  
3 Mr. Good, that you read something in the paper and you  
4 would think you would have told us that.

5 MR. GOOD: Exactly.

6 MR. DEANS: I think this is what it is,  
7 it's not a matter of whether it's a secret or not.

8 THE WITNESS: I think in fairness to the  
9 Board, of course, you have to realize that, you know,  
10 the final announcement we could not make until it  
11 had cleared the Cabinet, because it would be sheer  
12 speculation and I think we just couldn't do it. And we  
13 may have very protracted negotiations with a number of  
14 people about a number of things in this kind of a develop-  
15 ment, but we certainly could make no announcement to  
16 the public until it had been cleared by the Cabinet  
17 because the Cabinet may very well have not given us  
18 clearance on it. But I share what you say about the other  
19 things that there are major new developments within the  
20 Board here that they're working on and so on and so on  
21 and it might very well be that these could be catalogued  
22 and brought to your attention and explained to you in  
23 the best way we can.

24 MR. DEANS: Mr. Hamilton, if we were  
25 accustomed to being told and then the Board came to the  
26 Committee and said, you know, you are considering doing  
27 something but you have nothing finalized and you report  
28 that you have and I think the Committee would get into  
29 the habit of accepting that sort of thing. The way it  
30 is when things do suddenly emerge you wonder.



1 THE WITNESS: It never crossed my mind and  
2 I don't think of anybody on the Board's mind that there  
3 was any secrecy about this particular transaction.

4 MR. DEANS: There was never any considerat-  
5 ion, by the way, and it was mentioned I believe by Mr.  
6 Miller I think about moving the administration to  
7 Downsview?

8 THE WITNESS: Yes.

9 MR. DEANS: And was there ever any thought  
10 of moving Downsview to somewhere else that is more  
11 accessable?

12 THE WITNESS: I don't think so, Mr. Deans,  
13 and I think that if the evidence of the Doctor last night  
14 and your sympathetic consideration of that question I  
15 can very well see the day when Downsview is going to  
16 serve a very useful purpose to the community as a whole  
17 as a very greatly expanded facility and I think Downsview  
18 where it is in isolation with the kind of expansion  
19 facilities available may be a very, very useful operation  
20 for the whole community some day, not just the confines  
21 of the Workmen's Compensation Board.

22 THE CHAIRMAN: Are there further questions?

23 THE WITNESS: If you want to ask Mr.  
24 Thompson the financial questions I think it will be quite  
25 in order, Mr. Chairman.

26 THE CHAIRMAN: Mr. Good has a further  
27 question.

28 MR. GOOD: On this decision to move into  
29 leased quarters with an option to buy the leased quarters  
30 at a later date, were you influenced by government policy



1 which now appears to be have private developers develop  
2 their buildings and then they lease it back on a lease-  
3 back arrangement or how did you arrive at the decision --  
4 rather than building your own building and calling for  
5 tenders?

6 THE WITNESS: Well, I say this to you,  
7 that we were not influenced by government policy. I  
8 have flirted around and have been a self-appointed expert  
9 in this particular field for a few days. With the T.T.C.  
10 we dealt with a lot of real estate and that kind of thing  
11 and I just finished a building for the Ontario Federation  
12 of Labour and there are all kinds of options open to you  
13 today where you could purchase, you know, the building  
14 as we have on Harbour Street, you could purchase the  
15 land under a lease holdback and there are all kinds of  
16 options open to you today so you take a look at all of  
17 the options and we took a look at this option and this  
18 looked like the best business one available.

19 MR. GOOD: Did you have an appraisal made  
20 on the present site or did you just appraise its value  
21 from the offers you had?

22 THE WITNESS: We had to appraise it on the  
23 basis of the offers we had, as part of a total package.

24 MR. GOOD: You had no appraisal of the  
25 if  
26 land value without the building, /you were to raze the  
27 building and build a new building, you didn't even consider  
28 that?

29 THE WITNESS: Not to my knowledge because  
30 we aren't in the real estate business and we didn't want  
to hold that property.



1 MR. GOOD: Yes, but you own real estate?

2 THE WITNESS: Oh, yes.

3 MR. GOOD: What about your present locat-  
4 ion? Do you have any reservation about the present  
5 location of your office? Do you think it is good or  
6 better than the Bloor and Yonge location would be?

7 THE WITNESS: Oh, no. My own personal  
8 feeling is that Bloor and Yonge is far superior than  
9 where we are from the location <sup>and from</sup> the standpoint of the  
10 workers and the availability to it. There is no question  
11 about this. They are on the cross-section of the east-  
12 west subway. Everybody coming into town can park at  
13 Islington Avenue, they can park at either extremities,  
14 north, south, east or west of the subway and come in by  
15 subway, they could come in halfway and then use the  
16 subway. There would be parking facilities downtown and  
17 I think it is just a superior location.

18 MR. GOOD: Well I don't think that the  
19 people coming in from out of town would think so.

20 THE WITNESS: I mean if I were coming in  
21 from any part of out of town Toronto I would park my  
22 car at the extremity of the subway and come in by subway.

23 MR. GOOD: Oh, there isn't one person in  
24 50 that does that, not when you are going to a building  
25 with a free parking lot.

26 Well I am just questioning your reasonings  
27 and you really think that Bay and Bloor on perhaps the  
28 highest priced property in all of Metropolitan Toronto  
29 is a more suitable location for the Board?

30 THE WITNESS: Yes.





1 MR. GOOD: One more thing I wanted to ask;  
2 did you ever consider moving the administrative office,  
3 that is, your computer complex and all this type of  
4 thing -- or leaving it where it is or moving it to some  
5 other location and keeping the function of the hearings  
6 and the Board itself in a centralized location?

7 THE WITNESS: No, we never did and part of  
8 this exercise is consolidation because we have got the  
9 safety associations over in the Arcade, we have got the  
10 printshop over in the warehouse over at the water front  
11 and part of this exercise is consolidation because we are  
12 in a lot better position for consolidation than spreading  
13 out our operation in my opinion.

14 MR. GOOD: In other words, then, you feel  
15 that the centre of Toronto, the largest city, has to be  
16 the centre of the Workmen's Compensation Board?

17 THE WITNESS: Oh, I wouldn't say it had  
18 to be, that is a pretty harsh statement. I think it is  
19 a desirable place and I think our location, it is desirable  
20 that it be in Toronto and I think we have one of the  
21 most desirable locations now in Toronto.

22 MR. GOOD: Well it is rather distressing  
23 to those of us who come from out of town and we look on  
24 Toronto perhaps a little differently that all government  
25 agencies, Workmen's Compensation, Ontario Hydro, all have  
26 to have the most expensive real estate in the Province  
27 of Ontario as a location for their head offices, I mean  
28 and for all of it, not just the executive offices and  
29 where the action is -- I agree you have to have a good  
30 location for injured workmen and the members of the



1 Legislature who are accompanying them to your office.

2 THE WITNESS: I can't answer for government  
3 policy or what they should or should or should not do, I  
4 am simply speaking for the Workmen's Compensation Board.

5 MR. GOOD: But it's all involved in the  
6 same line, everybody wants to be on the most expensive  
7 piece of real estate in the Province and that's poor  
8 planning in my opinion.

9 You mentioned about there was no secrecy.  
10 Well then, don't these articles disturb you where "Labour  
11 Minister Carton refuses to speak with Toronto Star,"  
12 "MacDonald, Workmen's Compensation Board, refuses to comment  
13 on Tuesday and Decker, Vice-Chairman, said he was in no  
14 position to comment on the planned move and when this  
15 final move came up" and I can't understand why this wasn't  
16 mentioned months before.



1 THE WITNESS: I am speaking for the  
2 Board now and the Board couldn't make any public  
3 announcement before it went through the Cabinet.

4 MR. GOOD: Why didn't you discuss it when  
5 you were before the Committee last June that you were  
6 contemplating the move?

7 THE WITNESS: I don't know why we didn't  
8 but it wasn't calculated that we didn't. I am simply  
9 saying to you that we didn't.

10 THE CHAIRMAN: Does that complete the  
11 questioning?

12 MR. GAUNT: Mr. Chairman, I have one  
13 question. I am just dying of curiosity. I was looking  
14 over the Office Accommodation Cost here and I notice  
15 that cafeteria, you lost \$60,000.00 in your cafeteria  
16 given the fact that you have about what, 1500 employees;  
17 that is roughly \$40.00 a head. Is that a deliberate  
18 policy on your part?

19 THE WITNESS: I think there is a loss in  
20 the cafeteria and maybe Mr. Thompson is qualified -- he  
21 says he is -- qualified to answer that. I think there  
22 is a loss in the cafeteria and he can give you the  
23 exact figures.

24 MR. GAUNT: So you won't be faced with  
25 that situation when you get into your new premises?

26 THE WITNESS: That is right.

27 MR. GAUNT: Everybody will have to pay  
28 for their own at full going rates?

29 THE WITNESS: Yes.

30 THE CHAIRMAN: Does that complete the



1 questioning?

2 Anything further?

3 Mr. Gaunt, do you have further questions?

4 MR. GAUNT: No.

5 THE CHAIRMAN: You may be excused, Mr.

6 Hamilton.

7 Thank you for your contribution.

8 MR. DONNELLY: Mr. Thompson, please.

9 THE CHAIRMAN: (Swears the witness)

10 ALVIN STUART THOMPSON, sworn:

11 EXAMINATION BY MR. DONNELLY:

12 Q. Your full name, sir.

13 A. Alvin Stuart Thompson.

14 Q. And your occupation?

15 A. Director of finance, Workmen's

16 Compensation Board.

17 Q. You were sitting right beside the  
18 last witness and have some idea of the questions -- or  
19 some of the questions that are in store for you. I  
20 think I will just pass to the Committee, Mr. Chairman,  
21 if they have questions.

22 THE CHAIRMAN: Mr. Deans?

23 MR. DEANS: You heard the questions that  
24 I asked Mr. Hamilton. There were two figures given by  
25 Mr. Carton and one, the figure for something called net  
26 rental, \$1,443,000.00 as I recall, I don't have the  
27 figure in front of me, and one for something called  
28 net leasing cost of \$636,000.00. Would you be able to  
29 tell us exactly what the \$800,000.00 difference is?

30 THE WITNESS: Yes, Mr. Deans, I can explain





1 that. These figures relate to the Fidnam proposal  
2 and if they are the same figures I am looking at here,  
3 the gross rental figure is \$1,443,000.00 for 210,000  
4 square feet of accommodation, and the other figure I  
5 have labelled the net annual leasing cost which amounts  
6 to \$636,000.00 and the difference is what you want  
7 explained?

8 MR. DEANS: Right.

9 THE WITNESS: We have evaluated the cost  
10 factors for parking, for a partitioning and design and  
11 allowances, special allowance we call it. And for the  
12 surplus -- what we call the surplus on disposal of the  
13 building, that is -- now bear in mind what we are looking  
14 at here are comparative costs. We are comparing costs  
15 for four different proposals, Fidnam, City Parking,  
16 Great Northern, and Olympia and York . So even if these  
17 figures are not absolutely significant, comparatively  
18 they are; that is, we have reduced the propositions to  
19 common terms for comparative purposes. So that I go back  
20 again to an item which I call surplus on disposal of the  
21 building which gives effect to the difference in the  
22 selling price of our building at 90 Harbour Street. The  
23 lowest figure was \$3,000,000.00 and then there were  
24 figures of \$3,100,000.00, \$3,250,000.00 and \$3,500,000.00.  
25 So if we can explain that item a little, the three and  
26 a half million represents a half million dollars more  
27 than the lowest offer for the building, so we have to  
28 give effect to that in comparative costs.

29 The next item is a profit on the mortgage  
30 investment. Now we have already discussed the mortgage



1 investment on the Fidinam proposal, \$15,000,000.00, and  
2 I am saying there is a profit which must be recognized.  
3 The profit is what I would call the implemental income  
4 on investment. You see, we have a normal yield and we  
5 have used long Ontario bonds at that time as the normal  
6 yield in our investments, and at that time I think it  
7 was running 7-1/2% <sup>and</sup> As a matter of fact is the figure  
8 we used. So any yield, any investment yield in excess  
9 of that would be implemented in, which of course must be  
10 given effect to in the calculation and in effect reduce  
11 lower rental costs.

12 Another item is the profit on the land  
13 investment, and the explanation is exactly the same  
14 there; that is, the normal yield on a long term investment is  
15 7-1/2%, in this case we are getting an 8-1/2% yield.  
16 Now I would also say to give recognition to the capital  
17 appreciation factor we used a normal figure of 5-1/2%  
18 a year which is a very conservative figure, if I may use  
19 the word.

20 MR. DEANS: We permit use of the word.  
21 It is the way it is applied.

22 THE WITNESS: Thank you, Mr. Deans.

23 However, I point out here that the 5-1/2%  
24 appreciation factor is only a nominal factor to recognize,  
25 this item, because in fact on that property the land  
26 value in the last year has gone up something in the  
27 order of 30% to 50%. So looking at that fact alone it  
28 indicates the quality of the investment. So those items,  
29 and just to put dollar values on them if I can explain  
30 them, the valuation on the parking lot, these are annual



1 figures, \$9,000.00; partition allowance, \$19,600.00 and  
2 annual figure of \$4,900.00, surplus on disposal; the  
3 interest factor, \$37,500.00 and capital factor, \$25,000.00,  
4 and the incremental profit on the mortgage investment  
5 of \$375,000.00 and incremental profit on the land  
6 investment, \$336,000.00, and that represents \$807,000.00  
7 that you are asking about.

8 MR. DEANS: I see.

9 You don't think I understand it, do you?

10 Well, you are right.

11 MR. HAMILTON: Maybe I should have answered  
12 it for you.

13 MR. DEANS: No, I think I may understand  
14 it, strange though it may seem. I do these kinds of  
15 calculations at home every night.

16 THE WITNESS: They put you to sleep?

17 THE CHAIRMAN: Any further questions, Mr.  
18 Deans?

19 MR. DEANS: Yes, I do.

20 Other than the matters directly related  
21 to services provided, providing parking and partitioning,  
22 the other matters that you could have had simply by  
23 investment, if you had been able to invest at a rate of  
24 return higher than what you considered to be normal.---

25 THE WITNESS: Yes, essentially this is  
26 the case.

27 MR. DEANS: That in fact the investments  
28 you could have made had you been able to get 10% or  
29 \$15,000,000.00, which I think you might have been able  
30 to get ---



1 THE WITNESS: I would say, sir, it was  
2 not of the same quality. Mr. Allan has also pointed out  
3 our own tenancy there gives us the quality that we would  
4 insist on this type of investment. Normally we would  
5 not invest in a mortgage of this type.

6 MR. DEANS: Oh, I am not questioning  
7 whether you would or not, I am just saying that there  
8 are opportunities available to invest.

9 THE WITNESS: That's right.

10 MR. DEANS: And that all of the things  
11 other than those matters directly related to services  
12 to the Board provided in the main facility are matters  
13 that could have yielded a return, a similar return to  
14 the Board had the investment been made in another  
15 facility all together apart from the Board's involvement.

16 THE WITNESS: Yes, this is quite true.  
17 There is a wide range of investment opportunities of  
18 varying qualities, and of course the yield is commensurate  
19 with the risk.

20 MR. DEANS: It is conceivable then in  
21 figures that you gave us on the office accommodation  
22 costs at 90 Harbour Street, had you taken the \$15,000,000.00  
23 and the additional some millions, I am not sure, probably  
24 I think it would be around \$18,000,000.00 all together,  
25 had you taken that \$18,000,000.00 and invested it, the  
26 \$936,000.00 which we see at the bottom might well have  
27  
28  
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1 been \$336,000.00. Have you applied this same kind of  
2 rationale?

3 THE WITNESS: Yes, this is quite true,  
4 Mr. Deans, if we took the whole investment portfolio  
5 and do the same thing with it.

6 MR. DEANS: This is what I mean, you've  
7 done that in effect, because you take a portion and if  
8 you go over the whole thing it appears to be an investment  
9 portfolio.

10 THE WITNESS: That is correct.

11 MR. MILLER: Are you satisfied \$100.00  
12 a square foot you are paying for the land is a fair  
13 price today?

14 THE WITNESS: You couldn't buy it at that  
15 price today, Mr. Miller, it would be about \$135.00 to  
16 \$150.00 a square foot.

17 MR. MILLER: I asked that because there  
18 was some reference in the House to this being a high  
19 price for that land.

20 THE WITNESS: Looking at it from an  
21 investment point of view I would have to say it doesn't  
22 matter what price you pay for it if you are going to  
23 get appreciation of 35% per year and a yield of 8-1/2%  
24 and you can't do much better than that.

25 MR. MILLER: I am concerned about one  
26 thing, I think Mr. Carton indicated that Canadian  
27 National Investment were putting \$30,000,000.00 in  
28 this property and you were putting \$15,000,000.00 in.  
29 We have a first mortgage; what do they have?

30 THE WITNESS: I do not know. I would



1 assume it is also for the first mortgage. If I were  
2 managing their firm I would want a first mortgage.

3 MR. MILLER: How do you get two firsts?

4 THE WITNESS: We are not ---

5 MR. MILLER: Different properties?

6 THE WITNESS: Different properties.

7 MR. MILLER: That is all.

8 THE CHAIRMAN: Are there any further  
9 questions?

10 MR. GOOD: Regarding the investment  
11 portfolio, Mr. Carton was not aware -- sorry, Mr.  
12 Hamilton -- whether or not you have any other arrangements  
13 of this nature where you have bought the land and leased  
14 it to a developer where you have participated in a private  
15 enterprise developing complex of this nature.

16 THE WITNESS: My answer would be no, but  
17 my answer would be also that we have invested in  
18 mortgage loans.

19 MR. GOOD: What type?

20 THE WITNESS: N.H.A. mortgage loans.

21 MR. GOOD: N.H.A.?

22 THE WITNESS: Yes.

23 MR. GOOD: Residential?

24 THE WITNESS: Residential property.

25 MR. GOOD: But you have no other commercial  
26 mortgages in your portfolio?

27 THE WITNESS: No.

28 MR. GOOD: What percentage of your  
29 portfolio is in mortgages?

30 THE WITNESS: It is extremely small. It



1 is a recent development. The portfolio of course has  
2 been in existence for 50 years so it is really a very  
3 minor portion.

4 MR. GOOD: Is it common shares, preferred,  
5 the others?

6 THE WITNESS: We are subject to the Trustee  
7 Act as has been pointed out and up until about three and  
8 a half years ago we were confined to Canada and Ontario  
9 directly guaranteed and so the portfolio is predominantly  
10 provincial, mainly in Ontario, provincial.

11 MR. GOOD: I am interested in the high  
12 cost of operating your present building. I rather have  
13 just a personal feeling not based on any economic  
14 validity that this looks to be somewhat excessive --  
15 or I shouldn't use the word valid -- but I see you put  
16 on your present building, you deduct \$120,000.00 a year  
17 depreciation and you put 5% on \$2,150,000.00 which would  
18 leave about a value of \$1,350,000.00 for the land. What  
19 is the present acreage of the site?

20 THE WITNESS: I haven't that figure.

21 MR. GOOD: Well, my guess it would be  
22 what, eight and a half?

23 THE WITNESS: It is more than that.

24 MR. GOOD: More than that.

25 THE WITNESS: I couldn't give you an  
26 exact figure on it. I don't have a figure before me.

27 MR. GOOD: Because, you know, you  
28 can't have a high value on the building to make the  
29 depreciation look high, to make your present operations  
30 look high and say that that practically makes that land



1 worth very little.

2 THE WITNESS: Well, the depreciation of  
3 course is based on costs. The depreciation rate is a  
4 very nominal rate of 2-1/2% a year, and you can't make  
5 a capital cost allowance any lower than that and be  
6 reasonable of the operation.

7 MR. GOOD: So you base the operation on  
8 the cost, not on present value, but then on your return  
9 on interest, you base that on what you have been offered  
10 for the property which didn't really cost you that on  
11 your previous investments, which is really the major  
12 component of this operating cost. So in my view it  
13 doesn't cost you anywhere near \$8.14 a year to operate  
14 that building per square foot, that's the only thing.

15 THE WITNESS: If I may explain, the  
16 interest factor of course is the yield on the investment  
17 we forfeit by not selling the present property at the  
18 best price we can get.

19 THE CHAIRMAN: Mr. Allan?

20 MR. ALLAN: Well, I was going to ask a  
21 question, but I am afraid it wouldn't be very useful.  
22 I was going to ask you what your average return -- what  
23 is the average interest rate return on your whole  
24 portfolio?

25 THE WITNESS: Yes, this is about 6% roughly,  
26 Mr. Allan, and as I already explained it is a very old,  
27 old portfolio.

28 MR. ALLAN: I recognize that.

29 THE WITNESS: And you get some 3-1/2%.

30 MR. ALLAN: I realize the question isn't





1 worth asking because you were getting more than that  
2 for your investments today.

3 THE WITNESS: Yes, long Ontario runs  
4 about 8.

5 MR. ALLAN: What do you get on the  
6 N.H.A.?

7 THE WITNESS: Well it depends.  
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1 I think we get about 9½. But it runs about  
2 9% between long Ontario and ---

3 THE CHAIRMAN: Mr. Deans, you didn't mention  
4 you invested in N.H.A. mortgages previously.

5 THE WITNESS: That's right.

6 MR. DEANS: In block or in single mortgages?

7 THE WITNESS: These were apartment projects,  
8 two apartment projects.

9 MR. DEANS: Two apartment projects?

10 THE WITNESS: Yes.

11 MR. DEANS: Those are the only ones?

12 THE WITNESS: Those are the only ones.

13 THE CHAIRMAN: Does this complete our  
14 questioning of this witness?

15 MR. DONNELLY: Mr. Chairman, there is one  
16 question I might mention, I am beginning to wonder what  
17 I told Mr. Singer at 7:30 this morning and I am wondering  
18 if Mr. Carton is going to be available this afternoon.  
19 It was either put him on in the first place ---

20 THE CHAIRMAN: Would you repeat that,  
21 Mr. Donnelly?

22 MR. DONNELLY: I told Mr. Singer, I think  
23 I told him, we were going to do this at 10:00 o'clock  
24 but I am wondering what I did tell him since he didn't  
25 show up.

26 THE CHAIRMAN: But the point remains I  
27 thought we were winding up this portion of our Hearing  
28 this morning, this is why we have run over the noon hour  
29 and I want to apologize to the Committee for running  
30 over the noon hour but, at the same time, I want to



1 remind them that they have been delinquent at times and  
2 we haven't got off at 10:00 or 3:00 as specified.

3 We are adjourned until 2:00 p.m.  
4

5 --- Upon recessing at 12:10 p.m.  
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--- Upon resuming at 2:20 p.m.

THE CHAIRMAN: We will call our meeting to order. Counsel, are you ready to proceed on the portion concerning the remissions?

MR. DONNELLY: Yes, I am, Mr. Chairman.

Mr. Greaves, please, excuse me, Gerrard.

THE CHAIRMAN: Mr. Gerrard.

THE CHAIRMAN: (Swears the witness)

KENNETH GERRARD, Sworn:

EXAMINATION BY MR. DONNELLY:

MR. DONNELLY: Mr. Chairman, Mr. Gerrard is with the Steel Company of Canada and he appears with his counsel, Mr. Ron Booth.

Q. Now, Mr. Gerrard, what is your present capacity with the Steel Company of Canada?

A. I am Safety Supervisor, sir, with the Steel Company of Canada, Hamilton Works, which is the basic plant.

Q. How long have you held that position, sir?

A. Approximately eight years.

Q. And are you familiar with a meeting that was held at the Ford Motor Company on the 24th of October in 1969, dealing with compensation matters?

A. Yes, sir.

Q. Can you tell us in general terms





1 what led up to the calling of that meeting, sir?

2 A. Some time previous to October 1969,  
3 I had occasion to talk in generalities with one of the  
4 other members of the committee.

5 Q. I think you can tell us who it was  
6 if you would?

7 A. Mr. Allan Rhodes of the Ford Motor  
8 Company.

9 Q. Right?

10 A. And it was agreed during the conver-  
11 sation that we had mutual points that we considered were  
12 of some concern and that perhaps some others shared our  
13 views and we agreed that we would contact certain people  
14 to see if they were interested in getting together to  
15 discuss certain matters. This was done. Allan Rhodes  
16 of Ford Motor Company took it upon himself to send out  
17 correspondence, mailing notice of agreement, etc.

18 Q. Is that original letter from  
19 Mr. Rhodes of the Ford Motor Company available to be filed  
20 here?

21 A. Yes.

22 Q. I also understand that you have many  
23 documents in your file and you are prepared to file the  
24 entire file, I suppose, with the Committee, provided that  
25 you get your original papers back; you would like to just  
26 leave photostats for us?

27 A. Yes, sir.

28 Q. Perhaps it might be simpler if you  
29 would keep your documents in front of you, if we could  
30 proceed, for now.



1                   The original letter was sent out by  
2 Mr. Rhodes on what date, sir?

3                   A.     October 17, 1969. ,

4                   Q.     And can you tell from your file to  
5 whom it was sent?

6                   It doesn't matter, sir. Can we go on. The  
7 meeting, I take it, was held at the Ford Motor Company on  
8 the 24th of October, was it?

9                   A.     Yes, sir.

10                  Q.     Who was the chairman of that meeting?

11                  A.     I was, sir.

12                  Q.     Were minutes kept for the meeting?

13                  A.     Yes, sir.

14                  Q.     Did the minutes record what persons  
15 were there and by whom they were employed?

16                  A.     Yes.

17                  Q.     Can you tell us who attended the  
18 meeting, please?

19                  A.     Mr. Robert Foley, Alcan; Mr. Cecil  
20 Harris, International Harvester; Mr. R. Hatter, General  
21 Motors.

22                  Q.     I wonder if you could just go slowly  
23 for us, please.

24                  A.     Mr. R. Lunn, General Motors; Mr. Matt  
25 Maher, Ford Motor Company; Mr. Carl Cooper, Burlington  
26 Steel; Mr. S. Rae, Chrysler of Canada; Mr. A. Rhodes,  
27 Ford Motor; Mr. Phillip Rome, American Motors; Mr. J.  
28 Thompson, Ford Motor Company; and Mr. R. Waspe, Ford Motor  
29 and myself.

30                  Q.     And the business that was discussed



1 at that meeting, sir? Could you read us the first para-  
2 graph of the minutes?

3 A. "The chairman welcomed members of  
4 the committee and opened proceedings  
5 by outlining the purpose of the  
6 meeting. It was suggested that our  
7 goal following the discussion of the  
8 problems set forth in the agenda, would  
9 be to prepare a 'Brief' outlining our  
10 common problems and recommendations.  
11 This 'Brief' would in turn be presented  
12 to the individual management of each  
13 company for their approval and comments."

14 Q. How long are those minutes in terms  
15 of pages, sir?

16 A. About two and a half, sir.

17 Q. I wonder, would you read them into  
18 the record for us, please?

19 A. Fine.

20 "The next point of discussion was  
21 whether the 'Brief' should subsequently  
22 be submitted to the Minister of Labour  
23 or the Board. Certain members of the  
24 committee outlined their negative  
25 experiences by approaching the Board  
26 direct. It was also suggested that  
27 Unions when approaching their compen-  
28 sation problems invariably went to  
29 the Minister and had been successful  
30 in bringing about certain changes in



the Act. It was unanimously agreed that our recommendation would be for the 'Brief' to be presented to Mr. Bales, the Minister of Labour. At this point the chairman referred to the first problem on the Agenda and opened the floor for discussion."

And the first part on the Agenda was:

"WHAT CONSTITUTES TOTAL DISABILITY:

It was agreed that we all had 'Rehabilitation' programs designed to prevent or minimize lost time. Members discussed procedures presently being used, but everybody agreed that their efforts were only partially successful. The Board is not recognizing the efforts of large industries in the field of 'Rehabilitation' and continuously rule in favour of the employee. It was suggested the problem lies also with the family physician who has not been made aware of the rehabilitation programs available in large industries. Several committee members referred to union interference. Employees are often encouraged to go off on compensation and many unions seem to think the man has a right to collect compensation rather than continue at work on a





1 favouring job. The following sug-  
2 gestions were made by various members  
3 of the committee. A

4 1) The Workmen's Compensation Board  
5 should be fully informed of the  
6 'Rehabilitation' programs available  
7 throughout large industries.

8 2) The Workmen's Compensation Board  
9 should take definite steps to inform  
10 all doctors that 'Rehabilitation'  
11 programs are available and should,  
12 wherever possible, be used. Literature  
13 should be distributed and seminars  
14 arranged.

15 3) Seminars should be arranged with  
16 union representatives and their  
17 cooperation with management in the  
18 area of modified work solicited.

19 4) The doctor's report (form 8)  
20 should be revised. The area dealing  
21 with total or partial disability  
22 highlighted to stress its importance.

23 5) Form 156 (and this is a treatment  
24 or service form that I am talking  
25 about) contain reference to the  
26 question of whether the employee is  
27 totally or partially disabled."

28 The next point of business was

29 "SECTION 22

30 It was pointed out that the validity  
of this section has recently been



1 challenged. The Board now states  
2 there are no regulations and therefore  
3 the employer cannot force an employee  
4 to be examined by another doctor.  
5 The committee members recommended a  
6 request be made for the Regulations  
7 pertaining to Section 22 (1) of the  
8 Workmen's Compensation Board Act."

9 The next order of business was

10 "ADJUDICATION:

11 Committee members felt that in an  
12 attempt to streamline their operations  
13 the Workmen's Compensation Board was  
14 in fact substituting quantity for  
15 quality. Most members were unhappy  
16 with present adjudication methods  
17 and agreed that once a claim was  
18 allowed, no matter how doubtful, it  
19 was extremely difficult to have  
20 that decision reversed. In many  
21 cases the Board is merely suggesting  
22 an employer use the Appeal System  
23 if not satisfied. It was felt that  
24 this was a poor substitute and the  
25 Workmen's Compensation Board should  
26 tighten up on their initial adjudi-  
27 cation of claims. In the area of  
28 streamlining there were also complaints  
29 about present methods of local  
30 investigation. Signed statements have



1                   been eliminated and the emphasis is  
2                   now on quantity rather than quality.  
3                   In the absence of signed statements  
4                   witnesses are not made responsible  
5                   for the information they give. The  
6                   claimant himself can at a later date  
7                   say the investigator misunderstood  
8                   him. Since he didn't sign a state-  
9                   ment this excuse can and is often  
10                  accepted.

11                 In conclusion, the committee members  
12                 put forward the following suggestions:

13                 1) The Workmen's Compensation Board  
14                 should revert to the old system and  
15                 allow their investigators to do an  
16                 'Investigation' to include, where  
17                 necessary, signed statements.

18                 2) The Workmen's Compensation Board  
19                 should tighten up on initial adjudi-  
20                 cation. Any claim where doubt exists  
21                 should be adjudicated by a senior  
22                 member of their staff."

23                 The next item of business was the Appeal  
24                 System, the appeals structure.

25                 "The committee agreed that the 'Appeal  
26                 System' in its present form was both  
27                 time consuming and costly. It was  
28                 suggested that in many cases, new  
29                 evidence was not submitted, yet the  
30                 Workmen's Compensation Board still



1 granted hearings to rehash the old  
2 information. Too many decisions  
3 were reversed without further sub-  
4 mission or introduction of new evidence.

5 The recommendations were:

6 1) The Review Committee retain its  
7 present function.

8 2) Appeals to the Tribunal should  
9 be put into two categories:

10 a) If no new evidence, the  
11 Tribunal would review the  
12 claim and make their decision.

13 b) If new evidence is submitted,  
14 a hearing should be granted.

15 3) Full Board hearings be eliminated.

16 The Board has all the necessary  
17 information gathered at the previous  
18 levels. They should merely review  
19 and make their decision."

20 The next item of business was:

21 "OVERPAYMENTS:

22 It was suggested that overpayments  
23 are costly and more effort should be  
24 made to recover the money.

25 The following suggestions were made:

26 1) All overpayments be automatically  
27 deleted from the cost of the claim  
28 and a credit issued to the employer.

29 2) The Board take stronger action  
30 to recover overpayments, including





1 court action where necessary.

2 3) When an employer appeals allowance  
3 further payment be suspended until  
4 the appeal is settled."

5 The next issue was:

6 "FRAUD:

7 The experience of most committee  
8 members indicates a complete lack of  
9 action by the Board in cases of  
10 fraud. The committee agreed that  
11 cases of fraud should be acted upon  
12 and people made to realize that obtaining  
13 money falsely is a serious offence. It  
14 would also act as a deterrent.

15 Suggestions were:

- 16 1) Form 6, 'Workman's Report of  
17 Accident,' be revised to include  
18 declaration that the information is  
19 true and correct.  
20 2) Witness reports contain a para-  
21 graph referring to the penalty for  
22 false information.  
23 3) The Board take court action on  
24 cases of deliberate or flagrant fraud."

25 Section 86 (6A) which is now 86 (77) was  
26 the next item of business.

27 "Members agreed that the purpose of  
28 our brief was to outline the type of  
29 problems that are adding to our costs  
30 and affecting frequency. This ties



1 in with Section 86 (6A) and therefore  
2 is an important part of the Brief.  
3 The question of claims allowed as  
4 'Disablement Arising out of the  
5 Employment' was brought up. At present  
6 these are costing money and these costs  
7 are included when considering an  
8 employer's performance in relation  
9 to Sect. 86 (6A). The employer can  
10 do nothing from a safety standpoint  
11 to eliminate this type of case. It  
12 was considered unfair to charge  
13 these costs against an individual  
14 company. The following suggestions  
15 were made:

16 1) Disablement Arising out of the  
17 Employment be charged to a separate  
18 fund such as the 'Second Injury or  
19 Enhancement Fund.'

20 2) Section 86 (6A) be strongly  
21 emphasized in the 'Brief' and be  
22 contained in the opening address."

23 "FINAL CONCLUSIONS

24 At the conclusion of the meeting,  
25 members were assigned sections of the  
26 Brief to prepare and submit to  
27 Ken Gerrard no later than November 10th,  
28 1969. A sub committee headed by  
29 Mr. Gerrard would then assemble and  
30 edit the Brief. A final copy would



1 be mailed to each Committee member  
2 for discussion at our next meeting."

3 That is the extent of the minutes, sir.

4 Q. And the minutes are signed by you  
5 as chairman, sir?

6 A. No, they are signed by Mr. Rhodes  
7 who took the minutes at the meeting.

8 Q. As you recall, is that an accurate  
9 statement of business as conducted there?

10 A. Yes.

11 THE CHAIRMAN: Counsel, may I interject?  
12 What was the date of that meeting?

13 MR. DONNELLY: October 24, 1969.

14 MR. BOOTH: Counsel has just asked copies  
15 be prepared as we go along if you wish.

16 MR. DONNELLY: I think it would be  
17 convenient, please.

18 Now, can you help us, sir, however you  
19 describe this in the corporate terms, the level of the  
20 corporate structure that these persons belong that you  
21 were dealing with at this meeting?

22 A. Each person in attendance at the  
23 initial meeting was either familiar with or dealing with  
24 compensation matters between their company and the Board.

25 Q. All in the compensation field.  
26 Perhaps I might have to get this individually from them  
27 but in their position in the corporate structure, can you  
28 tell us or help us generally in what positions they  
29 occupy?

0 A. They were compensation co-ordinators



1 and safety co-ordinators and accident prevention officers,  
2 at this level.

3 Q. Now as a result of that meeting, was  
4 a brief in fact prepared, as referred to in the minutes?

5 A. Yes, a brief was prepared and at the  
6 next meeting it was edited.

7 Q. Just a moment. It would seem from  
8 your minutes that certain aspects of the brief were to  
9 be prepared in certain quarters?

10 A. Yes, sir.

11 Q. So therefore it would appear to be  
12 in different origin for the terminology; is that correct?

13 A. Yes, sir.

14 Q. Can you tell us what those origins  
15 were?





1 A. Yes.

2 Q. And which companies actually  
3 prepared the brief?

4 A. I myself wrote the section dealing  
5 with local investigations, the appeal structure and the  
6 safety arising out of the course of employment.

7 If I recall correctly, Mr. Allan Rhodes  
8 wrote the adjudication.

9 Q. And he is with?

10 A. Ford Motor Company.

11 Q. Ford, yes.

12 A. And he wrote the part on adjudication.  
13 Mr. Sandy Rae I believe wrote the preamble into the  
14 brief.

15 Q. Just a moment, he is with?

16 A. Chrysler Corporation.

17 Q. Chrysler.

18 A. And overpayment and fraud I believe.  
19 Mr. Carl Cooper, Burlington Steel, wrote the section  
20 dealing with 86.

21 Q. Is that it, sir?

22 A. That covers it.

23 Q. Just one other thing that strikes  
24 me as I hear the brief read for the first time, that  
25 criticism of the Board seems to be in many cases that  
26 there was money going from the Board to workmen for  
27 different reasons; that the companies thought perhaps  
28 it shouldn't; is that correct?

29 A. The criticism that was levied was  
30 against the policies that were being administered by the



1 Board.

2 Q. May I put it to you this way: if  
3 your recommendations or criticisms were effected would  
4 the result be to reduce the assessment to the companies?

5 A. Yes, sir, we believe so.

6 Q. Is a copy of the brief available to  
7 be filed?

8 A. Yes, sir.

9 Q. How many pages is it, sir?

10 A. Eighteen.

11 MR. DONNELLY: Would you rather have it  
12 photocopied than read into the record?

13 ---EXHIBIT NO. 77: Minutes of meeting held October 24,  
14 1969 at the Ford Motor Company.

15 MR. DONNELLY: Q. Was a second meeting  
16 called to consider this brief, sir?

17 A. Yes, sir.

18 Q. Now, by whom was this second meeting  
19 called?

20 A. The second meeting was called by  
21 myself, sir.

22 Q. By letter again?

23 A. Yes, sir.

24 Q. And is that letter available to be  
25 filed?

26 A. Yes, sir, it is.

27 Q. And the date, sir?

28 A. January 7th, 1970.

29 Q. Could you read it in for us please?

30 A. I only kept one copy of the letter  
and I kept the copy that I sent to Alan Rhodes of Ford



Motor. The others I destroyed. It was only necessary I thought to keep one.

Q. The others would be similar, would they?

A. The very same.

Q. It says:

"Dear Mr. Rhodes,

I am enclosing a copy of the brief which you prepared following a meeting at the Ford Motor Company of Canada Limited, Oakville. The brief is subject to revision, such revision however will depend upon the comments each of you wish to make. The brief in its present form is not a brief which is to be submitted to your top management until after discussion by the Committee. It is suggested that the Committee reconvene Wednesday, January 14th, 1970 and at the Steel Company of Canada Limited, Research and Development. Please advise as soon as possible if you can attend."

Just one thing that I can comment on before we go on, that is the second time that the expression has appeared that the brief is to be presented to the individual management of each company. It appeared in the first paragraph of your minutes and it again is repeated in that letter.

A. Yes, sir.



1 Q. And I take it at this particular  
2 stage there is no commitment by any particular company,  
3 it is still in the forming stage?

4 A. Yes.

5 Q. Was that second meeting held, sir,  
6 January 14, 1970?

7 A. Yes, sir.

8 Q. And at Stelco?

9 A. Yes, sir.

10 Q. Who was present at that time, sir?

11 A. Unfortunately we didn't take minutes  
12 of the second meeting. We were only there to edit the  
13 draft copy of the brief.

14 Q. Was any business conducted apart  
15 from editing the draft brief?

16 A. No, sir.

17 Q. Who was the chairman, sir?

18 A. I was, sir.

19 Q. And you say there were no formal  
20 or written minutes available?

21 A. No, sir.

22 Q. And I asked you who was present, sir?

23 A. Myself ---

24 Q. Let me put it this way: was it the  
25 same group or were there changes?

26 A. There, I believe, was one -- Mr.  
27 Sandy Rae of Chrysler Corporation was not in attendance;  
28 I believe everyone else was who attended the original  
29 meeting with the exception of perhaps Mr. J. Thompson  
30 of the Ford Motor Company. No one was present from





1 Chrysler.

2 Q. Tell me, was anyone there from the  
3 Ford Motor Company?

4 A. Yes, sir.

5 Q. And who was that, sir?

6 A. Rhodes and Mr. Maher.

7 Q. It was the original group except that  
8 Chrysler was not represented and Mr. Thompson of Ford  
9 Motor?

10 A. That's right.

11 ---EXHIBIT NO. 78: Draft brief with reference to  
12 meeting of January 14, 1970.

13 MR. DONNELLY: Q. Can you tell us the  
14 result of the discussion on the brief that was presented  
15 to the group at that time?

16 A. Well, the discussion at that time  
17 really revolved around grammar, etc., of the brief.

18 Q. Tell me, did the members of the  
19 meeting have the brief in advance of going to the  
20 meeting?

21 A. Yes, sir, they did.

22 Q. It accompanied that letter?

23 A. Yes, sir.

24 Q. So that ---

25 A. It was the draft copy that they had.

26 Q. You said the discussion centered  
27 around grammar rather than the content; is that what  
28 you are saying?

29 A. That's right, sir.

30 Q. Well, was the brief in some form



1 adopted at that meeting?

2 A. At the conclusion of the meeting we  
3 had what we believed would be the brief that we would  
4 submit to top management. With the corrections I  
5 agreed to have the brief redone and submitted to each  
6 of the firms present for submission to their top  
7 management for authorization or approval.

8 Q. Did you in fact do that?

9 A. Yes, sir.

10 Q. And is that in the brief in the  
11 form that you have just given it to the Clerk of this  
12 Committee?

13 A. Yes, sir.

14 Q. Did you have any indication at that  
15 time why Chrysler was not represented at that second  
16 meeting?

17 A. Yes, sir, I received a letter from  
18 a gentleman by the name of Mr. Paul Tuz, which is  
19 dated February 24th, 1970 addressed to the Steel Company,  
20 attention of myself.

21 Q. And this is after the meeting, is it,  
22 the meeting was January 14, was it?

23 A. It was after the meeting of January  
24 14th, yes, sir.

25 Q. Was this the first notification you  
26 got from Chrysler then, sir?

27 A. Yes.

28 Q. Go ahead then, sir.

29 A. The letter reads,

30 "Dear Sir,



1 Thank you very much for your letter of  
2 the 17th instant."

3 This is the one I sent out with the brief,

4 "Mr. Rae has been promoted in our labour  
5 relation structure and consequently re-  
6 linquished his appointment as a Workmen's  
7 Compensation administrator. Your  
8 proposed brief has been discussed by the  
9 Industrial Safety director's committee  
10 of the Motor Vehicle Manufacturers  
11 Association, and you will be contacted  
12 shortly by a staff member of the  
13 Association, or Mr. Jack Carter of the  
14 Ford Motor Company."

15 It is signed Mr. P. J. Tuz , Manager of Safety.

16 Q. What is that Association that is  
17 referred to there, sir?

18 A. The Motor Vehicle Manufacturers  
19 Association.

20 Q. And are you competent or qualified  
21 to tell us what that is or comment on that, sir?

22 A. I would rather have one of the  
23 motor vehicle -- Ford Motors or General Motors comment  
24 on it.

25 Q. Now did that conclude the business  
26 then of the second meeting?

27 A. Yes, sir.

28 Q. Can you tell us that the brief was  
29 prepared in the revised form, and it was sent to the  
30 individual persons or companies who attended the second



1 meeting for the purpose of being submitted to the  
2 management; is that correct?

3 A. Yes, sir.

4 Q. What next happened after that, sir?

5 A. I have the letter which I submitted  
6 with the brief. I think it is worth reading into the  
7 record.

8 Q. Please.

9 A. It is dated January 22nd, 1970;  
10 this one I kept is addressed to Mr. R. Foley, Alcan,  
11 It says:

12 "Dear Sir:

13 I am enclosing copies of the proposed  
14 brief to be submitted to the Minister  
15 of Labour. As discussed, the enclosed  
16 brief is to be reviewed by Senior  
17 Management of your firm and any comments,  
18 deletions, additions, etc. that they may  
19 wish to record will be appreciated. Senior  
20 Management should be informed that the  
21 brief is not in any way intended to be an  
22 attack on any one person, group, etc.  
23 at the Workmen's Compensation Board, but  
24 it is merely to bring to the Minister's  
25 attention some of the concern industry  
26 has with respect to the present administra-  
27 tion policies in effect.

28 It is asked that you request Senior  
29 Management to have the proposed brief back  
30 in your hands no later than February 16,





1 1970 so that a further meeting can be  
2 called to review Senior Management's  
3 criticisms, comments, additions, etc."

4 Signed by myself.

5 ---EXHIBIT NO. 79: Copy of letter sent to Mr. Rhodes  
6 under date January 7th, 1970.

7 ---EXHIBIT NO. 80: Copy of letter to Mr. R. Foley  
8 from K. Gerard, January 22, 1970.

9 ---EXHIBIT NO. 81: Copy of letter to the Steel Company  
10 of Canada from P.J. Tuz, dated  
11 February 24, 1970.

12 MR. DONNELLY: Q. And I take it several  
13 dozen copies of the brief went forward to all participants?

14 A. Yes, sir.

15 Q. What next happened after that, sir?

16 A. The meeting was called for -- this  
17 being a third meeting, March 2nd, 1970, and this meeting  
18 was held at Oshawa, General Motors, Oshawa.

19 Q. Can you tell me who attended that?

20 First of all, were there minutes?

21 A. There were no minutes.

22 Q. Who was the chairman?

23 A. I was the chairman.

24 Q. All right.

25 A. If I may, I would like to list  
26 who was in attendance by firm name. For General Motors  
27 there was Mr. R. Hatter and Mr. R. Lund; for Aluminum  
28 Company of Canada there was Mr. Robert Foley, and at  
29 this meeting he was accompanied by his assistant works  
30 manager, Mr. J. Stevens. I believe Stevens is correct.

International Harvester was represented  
by Mr. Cecil Harris; American Motors by Mr. Philip Rome;



1 Burlington Steel by Mr. Cooper; Ford Motor Company by  
2 Mr. Rhodes. And I believe he was the only one present.

3 I may be mistaken, I think Mr. Harper  
4 was also present, the Steel Company by myself.

5 Q. May I interrupt you, sir? Is  
6 there any significance in this particular group being  
7 selected or was this part of a group that came together  
8 from a larger invitation, or is there anything we should  
9 know about that?

10 A. No, sir. The people that were  
11 invited did take part and these were the only firms that  
12 were contacted.

13 Q. Was there any particular significance  
14 in the firms that were selected or invited to attend?

15 A. No, sir, other than I for one  
16 contacted Mr. Cooper of Burlington Steel who I knew  
17 quite well, knew that he had mutual concern; the  
18 Aluminum Company of Canada, I knew Mr. Foley quite well  
19 and believed that he shared some of these concerns and  
20 he might want to take part; International Harvester,  
21 Mr. Cecil Harris, who was my counterpart there, I was  
22 quite aware that he had similar feelings and concern.  
23 It was selected on this basis, and we didn't want the  
24 group too large.

25 Q. At this third meeting the Chrysler  
26 Corporation again was not present; is that correct?

27 A. That's right.

28 Q. Not represented?

29 A. Yes.

30 Q. And at this time Alcan was not



1 represented?

2 A. Alcan was represented.

3 Q. I am sorry. Who was there from  
4 Alcan?

5 A. Mr. R. Foley and the assistant  
6 works manager, Mr. G. Stevens.

7 Q. Oh, excuse me, I see that now.  
8 Well, I am missing one then, am I?

9 Were there eight to start with?

10 MR. GAUNT: Yes.

11 MR. GOOD: Seven.

12 MR. GAUNT: The Chrysler Company.

13 THE WITNESS: There were seven firms  
14 that attended at that meeting.

15 MR. DONNELLY: Q. So that all were  
16 present again except Chrysler, were they?

17 A. That's right, sir.

18 Q. And what was the business that came  
19 before this meeting, sir?

20 A. The business that came before the  
21 meeting primarily was to give the comments, criticisms,  
22 etc., of each firm's top management and whether or not  
23 each firm was prepared to support the brief.

24 Q. Did you make any records of the  
25 reports you got from individual companies relative to  
26 the content of the brief?

27 A. Yes, sir, I did. Prior to polling  
28 the committee I wrote down the names of each firm in  
29 attendance and on polling I made the notation yes or no  
30 and in two instances I put a little more than no or yes.



1 Q. By polling, you mean you took an  
2 individual vote or individual concensus from it, did you?

3 A. Yes.

4 Q. Could you tell us the result in  
5 each case as to the notation you wrote?

6 A. Yes, sir. General Motors indicated  
7 no and qualified their no with "not in its present form."

8 Q. By no, you mean they would not  
9 support it?

10 A. They were not prepared to support  
11 the brief and it was a qualified no, and it was a  
12 qualified no by "not in its present form."

13 Alcan, no, and the comment registered by  
14 Mr. Stevens was that the points raised in the brief did  
15 not appear to be affecting them.

16 International Harvester, yes, they were  
17 prepared to support the brief.

18 American Motors, yes, they were prepared.

19 Burlington Steel, yes, they were prepared  
20 to support.

21 Ford Motor, no, wished revised.

22 Steel Company, yes.  
23  
24  
25  
26  
27  
28  
29  
30





1 Q. So at that stage there were four  
2 yeses, were there?

3 A. Yes, sir.

4 Q. And what next happened then, sir?

5 A. The next thing that happened, the  
6 four companies who agreed to support the brief adopted  
7 the brief and the ad hoc committee was ---

8 Q. Was this at the same meeting that the  
9 four agreed to adopt the brief?

10 A. I'm sorry, sir?

11 Q. You say the next thing that had  
12 happened was the four who had said yes -- you have used  
13 the term the ad hoc committee that the four who said  
14 yes agreed to adopt the brief, did they?

15 A. Yes, sir.

16 Q. My question was, was this at this  
17 same meeting?

18 A. There was discussion -- not at this  
19 meeting ---

20 Q. I don't want to leave this meeting  
21 for a moment, that's why I asked -- was there any  
22 indication of any of this at this meeting or do you have  
23 any record or indication that certain companies did not  
24 support the brief in that form?

25 A. Other than I have recorded, no.

26 Q. You've told us all you know in that  
27 regard?

28 A. These were their reasons.

29 Q. Now will you tell us, sir, about the  
30 four then that did accept the brief, what happened then?



1                   A.    The four that did agree, and I as the  
2 Chairman with the recommendation of the other Committee  
3 members decided to approach the Canadian Manufacturers  
4 Association Compensation Committee to see if they would  
5 adopt the brief as a C.M.A. brief for presentation.

6                   Q.    And when was that, sir?

7                   A.    The initial meeting that I had with  
8 Mr. Keen    and Mr. Dick    at the C.M.A. was in early  
9 March, 1970.

10                  Q.    Was that with a special committee  
11 of the C.M.A. or was it simply generally with the C.M.A.  
12 or how was that done?

13                  A.    The Compensation Committee of the  
14 C.M.A. comes under the direction of Mr. Keen.    I had  
15 conversation with Mr. Keen    on the phone prior to going  
16 down pointing out why I would like to see him and a  
17 date was set at which time I went to see him at C.M.A.

18                  Q.    Did you go alone on that occasion  
19 or with other Committee members?

20                  A.    I went alone, sir.

21                  Q.    And what was the result of that  
22 meeting, sir?

23                  A.    As a result of this meeting with  
24 an explanation I gave a copy of the brief to Mr. Keen  
25 who indicated he would and did submit a draft copy of  
26 the brief to all members of the ~~Compensation~~ Committee  
27 of CMA.

28                  Q.    Was that brief in the same form as  
29 the one submitted to C.M.A.?

30                  A.    Yes. This was submitted to them for



1 their perusal, comments etc., and a meeting was subsequent-  
2 ly arranged for April 9, 1970 with this Committee.

3 Q. Are the minutes of that April 9th  
4 meeting available?

5 A. Yes, sir.

6 Q. Can they be filed, sir?

7 Now did you actually attend this April  
8 9th meeting, sir?

9 A. Yes, sir.

10 Q. And how long are those minutes now?

11 A. Five pages, sir.

12 MR. DONNELLY: Do you want those in,  
13 Mr. Chairman, or filed?

14 THE CHAIRMAN: If we are going to be  
15 governed by you here, Mr. Gerard, you did have the  
16 others put in and I think they probably should have  
17 those. I don't think they are closely typewritten.

18 THE WITNESS: They are.

19 MR. GOOD: May we just have the gist of  
20 the minutes?

21 THE CHAIRMAN: If it is the wish of the  
22 Committee you file them so that they can have an opportunity  
23 to go over them, maybe we can do that.

24 I think some of the things we are after  
25 could be contained in that.

26 MR. DEANS: Let's not argue, let's read  
27 them.

28 MR. DONNELLY: Q. Could you read them.

29 A. It is under the letterhead of the  
30 Canadian Manufacturers' Association, Ontario Division.



1 "Minutes of a meeting of the Workmen's  
2 Compensation Committee held at 67  
3 Yonge Street, Toronto, on Thursday,  
4 April 9, 1970.

5 Attendance: A list of those present  
6 is attached as an appendix to these  
7 minutes.

8 The Chairman explained that the  
9 meeting had been called as a result  
10 of a visit to the Association's  
11 offices, some weeks previously, by Mr.  
12 K. Gerard of The Steel Company of  
13 Canada, Limited on behalf of a group  
14 of companies which had drafted a brief  
15 they felt should be submitted to the  
16 Minister of Labour. The document was  
17 a criticism of the current administrat-  
18 ion of the Workmen's Compensation Act.  
19 The group hoped the CMA would adopt  
20 the brief as an Association submission,  
21 make editorial changes and forward it  
22 to the Minister of Labour.

23 Mr. Gerard had been advised that  
24 it would be contrary to the Associat-  
25 ion's practice to forward such docu-  
26 ment to the Minister. Administration  
27 of the Act was usually discussed with  
28 the Board; legislative matters were  
29 taken up with the Minister and depart-  
30 ure from this practice would require  
approval of the Ontario Division





1 Executive Committee. Mr. Gerard had  
2 indicated that a CMA decision not to  
3 proceed direct to the Minister would  
4 probably prompt the companies concern-  
5 ed to do so themselves.

6 A copy of the draft brief had  
7 been forwarded to members of the  
8 Committee prior to the meeting.

9 Mr. Gerard explained that since  
10 his visit to the Association's offices,  
11 his group had decided that if the CMA  
12 chose to submit the document as its  
13 own to the Board this would be accept-  
14 able to the originators provided that  
15 a copy of the submission was also sent  
16 to the Minister. He added that the  
17 brief had been initiated by a larger  
18 group but some companies had withdrawn.  
19 Those still identified with the brief,  
20 in addition to his own company, were  
21 American Motors, Burlington Steel and  
22 International Harvester. The brief  
23 had been approved by senior manage-  
24 ment of those companies.

25 The Chairman suggested that as  
26 three years had elapsed since the  
27 McGillivray Royal Commission Report,  
28 it was probably timely that administrat-  
29 ion of the Act be brought under the  
30 Association's scrutiny. He suggested  
a detailed study of the draft brief



1 so that a decision on the method of  
2 presentation be determined following  
3 that examination.

4 Introduction: The introductory pages  
5 of the draft prompted considerable  
6 comment and criticism. Several mem-  
7 bers suggested while the draft raised  
8 many valid points which they could  
9 support, their attitude to the strength  
10 of many of the observations would  
11 depend upon whether the submission  
12 was to be made to the Board or to the  
13 Minister. It was also suggested that  
14 irrespective of the form of present-  
15 ation they could not support the  
16 overall critical tone.

17 To facilitate examination of the  
18 draft it was agreed, tentatively, that  
19 submission would be to the Board with  
20 a decision on the form of presentation  
21 to be determined later in the meeting.  
22 Adjudication: The draft submits that:  
23 quality of adjudication has been  
24 sacrificed for speed; short term  
25 disabilities and medical aid cases  
26 should command more attention while  
27 ongoing claims be reviewed more  
28 frequently. Better initial adjudicat-  
29 ion would reduce the number of appeals  
30 by employers and eliminate or reduce



1 criticism in other sections of the  
2 brief many of which hinge on the  
3 difficulties of correcting errors in  
4 initial decision.

5 There was general agreement on the  
6 desirability of good initial adjudicat-  
7 ion and that the Board be asked to  
8 examine its procedures critically. It  
9 was suggested, however, that the  
10 Association's criticism would be more  
11 effective if it could be supported by  
12 statistics.

13 Disablement Arising Out Of Or During  
14 The Course of Employment: The Chair-  
15 man recalled that the CMA had pre-  
16 viously informed the McGillivray Royal  
17 Commission that the definition of an  
18 accident should be changed in the Act.  
19 Following the Commissioner's Report,  
20 the Association told the Minister  
21 that if this had been dealt with, most  
22 Workmen's Compensation problems would  
23 disappear. The Association sensed a  
24 tightening in this area of administrat-  
25 ion, prompted by the Commissioner's  
26 observations on the subject.

27 The brief recommended that a  
28 separate fund be established such as  
29 the Silicosis Fund to take care of  
30 'non-accidnt' cases to ensure that



1 costs of this type of claim were not  
2 included by the Board when computing  
3 accident frequency and costs.

4 This was considered to be an  
5 advisable recommendation. It was  
6 suggested that in the event a separate  
7 fund were established, the number of  
8 dollars so represented might in fact  
9 cause the Board to tighten its initial  
10 adjudications.

11 Modified Work and Rehabilitation: The  
12 brief criticizes the Board for not  
13 doing more to discourage abuse of work-  
14 men's compensation. It suggests the  
15 Board should give more recognition to  
16 the opinion of company doctors when they  
17 recommend return to modified work and  
18 should educate members of the medical  
19 profession to consider similar decisions.  
20 Some of the objectives could be  
21 achieved through changes in Board forms  
22 used by doctors and employers.

23 The Chairman pointed out that pre-  
24 vious studies by the committee on the  
25 availability of modified work show that  
26 employers had difficulty, due to  
27 seniority and union problems, in pro-  
28 viding light work. For this reason the  
29 Association made no specific recommend-  
30 ation to the McGillivray Royal Commis-  
sion except to say it would be better





1 to spend more money on the rehabilitat-  
2 ion and retraining than to continue  
3 100 per cent compensation after an  
4 injured worker was declared fit for  
5 light work and therefore subject to  
6 reduced compensation.

7 Several members reported decisive  
8 action by the Board when the company  
9 could provide modified work. The con-  
10 flict between doctors' opinions was  
11 recognized and that there appeared to  
12 be little tendency on the part of  
13 private physicians to consider light  
14 work. There was agreement that the  
15 Board could be asked to establish  
16 more effective control in this area  
17 and to work for more understanding and  
18 a better response from the medical  
19 profession.

20 Local Investigation: The brief is  
21 severely critical of the increase in  
22 investigation staff coupled with less  
23 effective enquiries. Investigators no  
24 longer seek signed statements from  
25 workers so that at the appeal stage  
26 the worker can claim the investigator  
27 misunderstood and since evidence at  
28 the Appeal Tribunal is under oath,  
29 statements to that Tribunal must be  
30 accepted despite glaring inconsistencies



1 with the earlier investigation.

2           There was some doubt as to the  
3 advisability of demanding a return to  
4 the signed statement policy. It was  
5 agreed, however, that the Board should  
6 be asked to examine its procedures with  
7 a view to eliminating conflict between  
8 initial evidence and that presented  
9 at the Appeal Tribunal.

10 Appeals: The brief is critical of  
11 the appeal system introduced in 1965  
12 as ineffective and expensive.

13           The Chairman reported that the  
14 Association had said to the Mc-  
15 Gillivray Royal Commission that CMA  
16 had insufficient evidence to comment  
17 at that time. Following the publication  
18 of the Commissioner's Report, however,  
19 sufficient time had elapsed that the  
20 Association then commented to the  
21 Minister that the appeal procedure  
22 should be tightened so that one might  
23 not move from one appeal level to a  
24 higher level without producing new  
25 evidence. This was similar to the  
26 recommendation of the draft brief.

27           The Committee agreed that new  
28 evidence should be required to pursue  
29 a case beyond the Review Committee  
30 level. This would permit one appeal



without new evidence.

Section 22: This deals with the fact that the Act provides an employer can insist on further medical examination but in accordance with the regulations. Since no such regulations have been issued the Act is ineffective and employers frustrated.

Some members noted Board co-operation in this area but agreed the employer was not free to force action. It was agreed that the Board be asked to provide the regulation needed to make this section of the Act effective.

Fraud: The brief suggest the Board should be more active in taking action in cases of fraudulent claims. The Workmen's Report of Accident and Witness Report should emphasize penalties for giving false information.

The Committee agreed.

Overpayments: The brief claims the Board is, incorrectly, reluctant to take effective action to recover overpayments from workers. It is not similarly reluctant to charge overpayments to employers where employer-provided information was incorrect.

The Committee agreed this should be rectified.



1 Section 86 (6a): The brief supports  
2 the principle of the Section but com-  
3 plains that because the Act permits  
4 claims for physical conditions which  
5 are not attributable to an accident,  
6 employers can be unjustly assessed  
7 and true accident records distorted.

8 It was noted that the Board had  
9 cancelled extra assessment under this  
10 Section where the employer showed his  
11 record could have been caused by too  
12 many doubtful claims (eg. back-pain  
13 cases). In effect this put employers  
14 on probation.

15 There was general agreement that  
16 non-accident cases should be removed  
17 before the Board calculated an employer's  
18 accident experience. This was a further  
19 instance where the broad definition in  
20 the Act led to employer dissatisfaction.  
21 What Views To Present And How to Pre-  
22 sent Them: There was substantial agree-  
23 ment with the points raised in the  
24 brief but little support for the  
25 attitude expressed in it. Most members  
26 thought it was too tough.

27 It was agreed that the points  
28 should all be taken up with the Board  
29 and not with the Minister. The exact  
30 form of presentation was left to the





Chairman following publication of the minutes of the meeting and receipt of any further comments members may make. The Chairman suggested it might be most appropriate to have a delegation meet the full Board with notes for discussion or with a complete written presentation which could be discussed. He suggested it would be appropriate for one of the four companies which drafted the brief to be represented.

Mr. Gerard reported that in view of this decision he would have to consult his group which originated the draft brief. He hoped to say, within a week, what independent action if any his group might wish to take.

(Please see note on foot of these minutes.)

Recent Interview with the Board: The Chairman reported that he, the Chairman of the Ontario Division and the Manager, Ontario Division met recently with the Chairman and Executive Manager of the Board at the Board's Chairman's invitation. This was initiated shortly after the Minister's February 20 announcement of the appointment of Mr. D.G. Decker and Mr. Douglas F. Hamilton to the Board. The purpose of the meeting was to see if the Associat-



1 ion had any complaints and to discuss  
2 ways of further improving communicat-  
3 ions between manufacturers and the  
4 Board. Periodic meetings between the  
5 Association's representatives and the  
6 full Board were suggested as one  
7 avenue.

8 Without disclosing the existence  
9 of the draft brief, which had been re-  
10 ceived following receipt of the in-  
11 vitation to meet the Chairman of the  
12 Board, the Board representatives  
13 were advised that in the near future  
14 the Association would probably have  
15 several items to discuss.

16 There being no further business,  
17 the meeting was adjourned.

18 CHAIRMAN

19 NOTE: Mr. Gerard reports his group's  
20 decision not to file the brief with  
21 the Minister independently."  
22  
23  
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1 That is the end of those minutes;

2 THE CHAIRMAN: That is the meeting of  
3 April 9th, 1970, sir, is it?

4 A. That's right, sir.

5 Q. What next transpired after that?

6 A. I wonder if I could have a drink of  
7 water, please.

8 Q. I wonder, sir, if I could just take  
9 a moment and interrupt you on that point. I have been  
10 asked to inquire about the statement that most members  
11 of this ad hoc committee as you call it, felt that the  
12 brief itself was too tough. Can you comment on that and  
13 tell us what companies were represented at that particular  
14 meeting?

15 A. This was not the ad hoc committee,  
16 sir, it was the committee members of the Compensation,  
17 C.M.A.

18 Would you like the number who were in  
19 attendance at that meeting?

20 Q. What companies were represented at  
21 that meeting?

22 A. Dominion Bridge Company Limited,  
23 Toronto; General Motors of Canada Limited, St. Catharines;  
24 General Motors of Canada Limited, Oshawa; Canadian General  
25 Electric Limited, Toronto; Allen Bradley Canada Limited,  
26 Galt; Bata Limited, Galt; Burlington Steel Company Limited,  
27 Burlington; Nicholson File Company of Canada Limited,  
28 Port Hope; International Harvester Company of Canada  
29 Limited, Hamilton; Ford Motor Company of Canada Limited,  
30 Oakville; Imperial Oil Limited, Toronto; Coca-Cola Limited,



Toronto; The Steel Company of Canada Limited, Hamilton; The B. F. Goodrich Company Limited, Kitchener; Metals and Alloys Limited, Toronto; Union Carbide of Canada Limited, Toronto; Canadian Westinghouse Company Limited, Hamilton; General Motors of Canada Limited, Oshawa; The Steel Company of Canada Limited, Hamilton. These are repeated because there was more people from the one firm present. Chrysler Canada Limited, Windsor; for the C.M.A. Association, Mr. D. S. Keen and Mr. A. C. Dick, both of Toronto.

Q. Was there a subsequent meeting then on June 30th between the C.M.A. and the Workmen's Compensation Board?

A. Yes, sir.

Q. Was that the next development then in this?

A. Yes, sir.

Q. Were you present for that meeting, sir?

A. The people who were present and who met with the Board officers were Mr. K. H. Rapsey, Chairman, Ontario Division, C.M.A.; Mr. E. R. Green, Chairman, Workmen's Compensation Committee, Ontario Division; Mr. C. E. Cooper, Workmen's Compensation Committee; Mr. H. M. Douglas, Workmen's Compensation Committee; Mr. J. H. Lumb, Workmen's Compensation Committee; Mr. D. S. Keen, the Canadian Manufacturers' Association; Mr. A. C. Dick, the Canadian Manufacturers' Association.

For the Workmen's Compensation Board, Mr. B. J. Legge, Chairman; Mr. D. G. Decker, Commissioner;





1 Mr. D. F. Hamilton, Commissioner; Mr. A. G. MacDonald,  
2 Executive Manager; Mr. Azzarello, Director of Adjudication;  
3 and Mr. D. Parkinson, Assistant Secretary.

4 Q. And that was the June 30th meeting,  
5 1970, sir, was it?

6 A. Yes, sir.

7 Q. And that was for the purpose of  
8 discussing this brief that you had brought forward by  
9 the C.M.A.; is that correct?

10 A. The C.M.A. Committee went to the  
11 Board using the brief only as talking points.

12 Q. Did it go in brief form or was it  
13 just submitted in point form or what was that?

14 A. I don't believe anything was handed  
15 to the Workmen's Compensation Board but this is what the  
16 C.M.A. took to the Board.

17 Q. Do you know if it was filed with the  
18 Board, sir?

19 A. I am sorry, I couldn't answer that.

20 Q. And do you have the minutes of that  
21 meeting available?

22 A. I have the minutes, yes, sir.

23 Q. And could you file the brief that  
24 you say was taken to the Board by C.M.A. and the minutes  
25 of the meeting?

26 A. Yes, sir.

27 Q. I think, unless the Committee members  
28 require it, we won't read those minutes, sir.

29 Now what was the next meeting then, following  
30 June 30th?

EXHIBIT NO. 83: Minutes of meeting held April 9, 1970,  
at The Canadian Manufacturers' Association,  
67 Yonge Street.



1 October 28th, is that any help to you, sir?

2 A. October 28th, 1970 is the date that  
3 we have recorded.

4 Q. That meeting was between whom?

5 A. The C.M.A. Compensation Committee  
6 to review the June 30th meeting.

7 Q. And are the minutes of that meeting  
8 available, sir?

9 A. Yes, sir.

10 Q. Were you personally present at this  
11 meeting?

12 A. Yes, sir.

13 Q. And do the minutes also disclose  
14 who was present?

15 A. Yes, sir.

16 MR. DONNELLY: May they be filed?

17 THE WITNESS: Yes.

18 Q. And that is between the C.M.A.  
19 Workmen's Compensation Committee and the Board, again,  
20 is it?

21 A. Yes, sir.

22 No, excuse me. No, it was the Compensation  
23 Committee of the Canadian Manufacturers' Association met  
24 to discuss the meeting with the Board which took place --

25 Q. I see, excuse me.

26 On February 12th, 1971, was there another  
27 meeting, sir?

28 A. Yes, there was, sir.

29 Q. And that was between whom?

30 A. This was a meeting between



1 Mr. E. R. Graydon who is Chairman of the Workmen's Compensa-  
2 tion Committee, C.M.A. Ontario Division; Mr. D. S. Keen,  
3 Manager of the Ontario Division, and Mr. Alec C. Dick,  
4 Ontario Division. This meeting took place between that  
5 group and Mr. A. G. MacDonald, Executive Manager, Workmen's  
6 Compensation Board and Mr. A. Azzarello, Director of  
7 Adjudication, Workmen's Compensation Board.

8 Q. Can those minutes also be filed, sir?

9 A. Yes, sir.

10 EXHIBIT NO. 86: Minutes of February 12, 1971 meeting  
11 between Compensation Committee of  
C.M.A.

12 Q. Now is that the end of the story  
13 or was there anything further happened after that?

14 MR. BOOTH: I wonder, Mr. Chairman, just  
15 for the record, I might point out that in view of the  
16 fact Mr. Gerard is under oath that the meetings of  
17 June 30th, 1970 and February 12, 1971 were not attended  
18 by him and of his own knowledge he doesn't really say  
19 what transpired -- he can't really say what transpired  
20 or, in fact, whether they transpired. He has what purport  
21 to be minutes but that's all.

22 MR. DONNELLY: Thank you very much.

23 MR. DONNELLY: Q. Mr. Gerard, was there  
24 anything subsequent to that February 12th, 1971 meeting?

25 A. No, sir.

26 Q. Are there any other documents that you  
27 have, sir, relative to this matter?

28 A. I believe it was in the latter set  
29 of minutes, the request for a specific case involving  
30 Section 22 whereby in the absence of regulations



1 the employer had a right to have the man examined by the  
2 doctor of their choice and the companies were asked to  
3 forward, if they had any cases, actual cases, to forward to the  
4 C.M.A. so that this could be taken up with the Workmen's  
5 Compensation Board. The Steel Company of Canada, Parkdale  
6 Works, we did put in a submission of one particular case  
7 which is documented if you want it.

8 Q. That is on that one particular issue  
9 only, is it?

10 A. Yes.

11 Q. Anything further beyond that, sir?

12 A. No, sir.

13 Q. Now, tell me, you have followed the  
14 course of the brief down to the February 12th meeting.  
15 Did your company, on its own, do anything further about  
16 accomplishing the ends that were hoped to be accomplished  
17 by the brief?

18 A. No, sir, not on our own.

19 Q. And you have told us about Chrysler  
20 writing you, I think, in February of 1970. Did you have  
21 any follow-up from Chrysler after that letter and relative  
22 to this brief?

23 A. Some time subsequent to that letter  
24 I did receive a phone call from a gentleman I believe  
25 by the name of Mr. Davidson. I don't know the man  
26 personally. He indicated he was taking Mr. Ray's place  
27 at Chrysler and he would perhaps be in touch with me in  
28 the future with respect to future meetings. That ended  
29 and I never heard from the gentleman again.

30 Q. The Chrysler letter indicated you





1 might hear further?

2 A. The Chrysler letter inferred that I  
3 would hear from the Motor Vehicles Association, Manufacturers  
4 Association.

5 Q. And did you in fact, sir?

6 A. No.

7 MR. DEANS: Well, the letter said "or  
8 Mr. Jack Carter of Ford Motor Company."

9 THE WITNESS: No, I didn't hear from  
10 Mr. Carter either.

11 I believe Mr. Carter is the representative  
12 on that association.

13 MR. DONNELLY: Q. Mr. Carter is present  
14 today.

15 Finally, sir, did you have any follow-up  
16 from the others that dropped out at that third meeting,  
17 General Motors or Alcan, or Ford, for that matter?

18 A. No, I had no further discussions  
19 with either companies that dropped out, that didn't  
20 support it.

21 MR. DONNELLY: The Committee members may  
22 have questions for you, sir.

23 THE CHAIRMAN: Mr. Miller?

24 MR. MILLER: In your first few comments,  
25 Mr. Gerard, I believe you made some mention that the  
26 union attitudes towards -- the union interference your  
27 committee felt existed. What kind of interference  
28 did they feel was being run?

29 THE WITNESS: Interference to the point  
30 that they encouraged people who had suffered a disability



1 during the course of their employment not to perform a  
2 lesser rate of job but to go off work on compensation.

3 MR. MILLER: Were you having difficulty in co-  
4 operating with the unions in employing men on light work?

5 THE WITNESS: We, as one company, and I  
6 speak for one company, I have experienced some problems  
7 where some of our people who we have had doing employment  
8 at their regular rates/where they can talk to<sup>you</sup> about why  
9 are they here, etc., yes, we have experienced this.

10 This doesn't just prevail with all members  
11 of the union.

12 MR. MILLER: Do you feel that a company  
13 is able to find enough light work to cover people eligible?

14 THE WITNESS: In most cases we can provide  
15 some form of useful employment.

16 MR. MILLER: I think one of your briefs  
17 mentioned that the family doctor didn't seem to be co-  
18 operating in this area?

19 THE WITNESS: I think what we were referring  
20 to in the brief is that the family doctor is not aware  
21 of what is available in industry to rehabilitate a man.

22 What we were asking for really was more  
23 emphasis placed on the Board's forms that they use between  
24 the doctor and the Board, to highlight this one particular  
25 section.

26 MR. MILLER: I am sure there will be a lot  
27 of discussion from our other members about this light  
28 work section because it has come up in the House a number  
29 of times even in my short tenure and there seems to be  
30 a feeling on both sides of the House that it isn't doing  
what it was intended to do.



1 Now you said in one of your comments that  
2 you wanted to revert to the old system.

3 Are you talking about the old adjudication  
4 system?

5 THE WITNESS: Now the old system that was  
6 used -- in reference to the Board -- of investigations  
7 whereby what we were requesting was to revert to the old  
8 system, take signed statements and thereby make people  
9 accountable for the information they give.

10 MR. MILLER: In your particular company's  
11 case, do you buy that pretty well that every rejected  
12 claim is appealed on behalf of the employee by the union?

13 THE WITNESS: Let me say a large number are.

14 MR. MILLER: Well, in all fairness, is this  
15 a good procedure?

16 THE WITNESS: Certainly, I think every man  
17 has a right to appeal.

18 MR. MILLER: Yes, well it would seem to me  
19 to be a fair way.

20 Section 86 (7) under the new Act is the  
21 one matter of these assessment levies,  
22 I believe, if you are experiencing more than your industry  
23 is averaging in the accident histories. Of the eight  
24 companies that got together on the ad hoc committee, do  
25 you know how many of them were suffering under such levies?

26 THE WITNESS: I was aware that Burlington  
27 Steel Company who supported the brief were under review  
28 and had been for a couple of years.

29 The steel Company of Canada in our Page  
30



1 Hersey Works in Welland and our Welland Tube Works in  
2 Welland had been assessed, put on appeal, that we were  
3 granted relief and we were able to establish that we had  
4 an effective program.

5 MR. MILLER: The Ford Motor Company didn't  
6 mention specifically at the committee meetings that they  
7 were?

8 THE WITNESS: No, sir, they didn't.

9 MR. MILLER: Because I think one of their  
10 levies occurred just at about the time of one of their  
11 meetings.

12 THE WITNESS: I was not aware.  
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1 MR. MILLER: Were you aware by any chance  
2 of the name of the company referred to in the Globe  
3 and Mail articles that touched off this inquiry that  
4 was supposed to receive the \$300,000.00 levy from the  
5 Workmen's Compensation Board?

6 THE WITNESS: No, sir.

7 MR. MILLER: Thank you.

8 THE CHAIRMAN: Mr. Deans?

9 MR. DEANS: Thank you. The brief that  
10 finally went from the C.M.A. was considerably changed  
11 from the draft brief that you sent out, the same  
12 general content, but the manner of expressing it was  
13 altered in the format that was used from the 18 page  
14 brief that you sent out, the brief that was submitted  
15 to the Board or was given orally to the Board was  
16 considerably changed.

17 Do you believe that there are a lot of  
18 people lying in the investigations?

19 THE WITNESS: I am sorry, I don't quite  
20 understand that question.

21 MR. DEANS: Well, in the investigations  
22 that are conducted by the Workmen's Compensation Board  
23 into accident claims, do you believe that a lot of  
24 people lie?

25 THE WITNESS: Mr. Deans, I don't  
26 suggest people lied. What we suggested, that evidence  
27 seems to change when we get before an appeal tribunal  
28 from what was gathered by the Board investigator.

29 MR. DEANS: What do you attribute that  
30 to?



1 THE WITNESS: I can't attribute it to  
2 anything, but let me point out that the usual reason  
3 for change that is given by a man appearing before an  
4 appeal tribunal is that either the Board investigator  
5 misunderstood him or was confused, and what is contained  
6 in the Board's file is not in actuality how it occurred.

7 MR. DEANS: Well, I have found in the  
8 numbers of times that I have appeared at the Board that  
9 to a great extent -- to the greater extent the basis  
10 for the decision is on medical evidence and not on the  
11 opinion of the worker and not on the opinion of anyone  
12 else. Would you think that was a fair statement?

13 THE WITNESS: I believe that the only  
14 time medical evidence comes into play is whether or not  
15 the disability is compatible with the history which is  
16 described.

17 MR. DEANS: I am trying to find out because  
18 we have obviously come across two different sets of  
19 circumstances and I don't understand it. I have generally  
20 found that in claims by workmen on decisions of the  
21 refusal to accept the thing have been basically on the  
22 strength of the evidence presented by physicians, that  
23 the fact that they worked -- very rarely have I come  
24 across a situation where the Board has turned down a  
25 claim on the basis of the accident having not occurred  
26 at that place. It does occasionally happen but not  
27 often.

28 THE WITNESS: This is just perhaps because  
29 this is the type of claim you were taking before the  
30 Board.



1 MR. DEANS: You find<sup>the</sup>/opposite to be the  
2 case, sir, do you?

3 THE WITNESS: We have all kinds. We have  
4 had more of this than the other.

5 MR. DEANS: You seem somewhat dissatisfied  
6 with the Board's attitude towards modified employment,  
7 and you indicate that in your particular company you  
8 can generally speaking provide some kind of satisfactory  
9 modified employment.

10 THE WITNESS: We will make every attempt  
11 to do this.

12 MR. DEANS: Would you say that holds true  
13 today as to what it must have been a year ago or two  
14 years ago?

15 THE WITNESS: Yes, sir.

16 MR. DEANS: Do you think that a worker  
17 given the choice between accepting a job in modified  
18 employment or getting 25% payment from the Board, that  
19 the majority of workers would accept the latter rather  
20 than the former?

21 You are aware of how the Board reduces  
22 payment in accordance with the doctor's comment that  
23 says he is fit to return to modified employment?

24 THE WITNESS: If I may speak from personal  
25 experience with my company, we encourage people to remain  
26 at work.

27 MR. DEANS: Why is that by the way?

28 THE WITNESS: We inform them that we are  
29 quite prepared to pay them their full salary while  
30 performing a lesser rated job. Now it has been our



1 experience and I am sure medically doctors will support  
2 this, that a man who remains in the work environment  
3 recovers and gets back to pre-accident employment much  
4 quicker than if he had gone off.

5 MR. DEANS: Perhaps we will ask some  
6 doctors then. I think it is an interesting statement.

7 Well then from that point of view, and  
8 it's in the interest of the company of course to have  
9 the man return to work as quickly as possible, from the  
10 point of view of the Board--an assessment.

11 THE WITNESS: I think the primary  
12 objective -- you know, the man has been hurt /rehabilitate  
13 him and keep him in the employment.

14 There are many useful jobs that a man who  
15 has certain types of injuries can do that must be done  
16 anyway.

17 MR. DEANS: I find the criticisms of the  
18 Board in the brief were -- let me start again: I might  
19 tend to agree that the Board's direction is in favour  
20 of accepting the worker's view, the worker's position,  
21 I think that that in general terms is correct, that  
22 in a / hearing before the Board that if there is a doubt,  
23 it has been said by the Chairman that it is resolved  
24 in favour of the worker, do you think that is unfair?

25 THE WITNESS: No, it isn't. The  
26 Workmen's Compensation Board-- where there is benefit  
27 of doubt, of course it should be awarded in his favour.

28 MR. DEANS: You recognize the delays as  
29 a result of more in-depth investigation would be delays  
30 in receipt of payment for the worker, generally speaking,





1 whose commitments are weekly. He would be in a rather  
2 difficult situation and even in the matter of reclaiming  
3 of payment/overpayment which, you know, you have made  
4 some mention of in a brief /the reclaiming of overpayment  
5 is more onerous on the individual than it would be on,  
6 say, a company.

7 Do you find that statement wrong?

8 THE WITNESS: I personally believe that  
9 if people receive money to which they don't rightfully  
10 belong, then it should be returned and every effort  
11 should be made to recover it.

12 MR. DEANS: Right. And where would you  
13 suggest, assuming that the person got money that was  
14 not rightfully his -- again through no fault of his own  
15 -- you point out, these things occur, there is some  
16 misunderstanding in the statement made, and recognizing  
17 that the majority of people live from day to day and  
18 pay to pay, where would he turn for this money, assuming  
19 that he wasn't responsible for the misunderstanding?

20 THE WITNESS: I am sorry, I couldn't  
21 answer that.

22 MR. DEANS: I just wondered because I  
23 know the hardships that this brings about and that's  
24 the reason I ask you, I think there are times, I  
25 agree with you, there are times when substantial over-  
26 payment may have been made and in cases where there  
27 has been fraud, and I don't disagree with you, but I  
28 think that the Board has to show a tremendous degree  
29 of understanding to the individual in that regard because  
30 he has no place else to go.



1                   What I want to ask you now has nothing  
2 to do with that. You said in the letter -- or you  
3 received a letter from Chrysler -- no, sorry, you wrote  
4 a letter to Alcan in which you said that further meetings  
5 would held to review the Senior Management's criticisms,  
6 comments, additions, etc. This was on January 22nd,  
7 1970. That further meeting was held?

8                   THE WITNESS: Yes, sir.

9                   MR. DEANS: After the finals of this  
10 draft copy was made up, were there in fact changes made,  
11 substantial changes made to the draft brief that was  
12 sent out in January?

13                   THE WITNESS: After the second meeting,  
14 the major changes were, for the most part/grammatical  
15 errors.

16                   MR. DEANS: I notice the auto manufacturers,  
17 most of them anyway, did not take part from that point  
18 on after that, at that meeting.

19                   THE WITNESS: Which meeting are you  
20 referring to?

21                   MR. DEANS: I assume the meeting that  
22 was held subsequent to the letter written January 22nd.

23                   THE WITNESS: March 2nd, 1970, you mean?

24                   MR. DEANS: Yes.

25                   THE WITNESS: At General Motors, Oshawa,  
26 that was the third meeting.

27                   MR. DEANS: I don't have the benefit of  
28 your rather extensive notes, I have to go from memory.  
29 Who in fact did not attend that?

30                   THE WITNESS: Of the original group?



1 MR. DEANS: Yes.

2 THE WITNESS: Chrysler Corporation of  
3 Canada.

4 MR. DEANS: Only Chrysler?

5 And after that meeting, who dropped out?

6 THE WITNESS: No one dropped out after  
7 that meeting. It was at that meeting that certain  
8 members indicated they could not support the brief in  
9 its present form.

10 MR. DEANS: Did you attempt at that  
11 point to redraft the brief?

12 THE WITNESS: No.

13 MR. DEANS: It seems to me it was four  
14 to three in favour of the brief; is that right?

15 THE WITNESS: Right.

16 MR. DEANS: You felt that those four  
17 were sufficiently strong to carry on when the other  
18 three went by the wayside?

19 THE WITNESS: We agreed before to take  
20 the submission to the C.M.A.

21 MR. DEANS: The other three that disagreed  
22 didn't go to the C.M.A., they went to the Automobile  
23 Manufacturers Association or some similar name?

24 THE WITNESS: I am not competent to talk  
25 on the two associations.

26 MR. DEANS: The Motor Vehicle Association.

27 THE WITNESS: But it seems to me that  
28 the Motor Vehicle Association seems to be an offshoot  
29 and it has a part to play in C.M.A. You will note in  
30 the original minutes of the people in attendance at the



1 first meeting which took place on April 9th, 1970 that  
2 General Motors, Chrysler and Ford Motor Company of  
3 Canada had people present.

4 MR. DEANS: I am sorry, sir, what date?

5 THE WITNESS: April 9th, 1970.

6 MR. DEANS: That is the meeting/which you  
7 made the grammatical changes?

8 THE WITNESS: No.

9 MR. DEANS: I am sorry, sir, I don't have  
10 the benefit ---

11 THE WITNESS: It was January 17, 1971.

12 MR. DEANS: April 9, 1970?

13 THE WITNESS: That was the meeting at  
14 C.M.A. with the Compensation Committee.

15 MR. DEANS: Go ahead, I need more in the  
16 way of information.

17 THE CHAIRMAN: Mr. Allan?

18 MR. ALLAN: Mr. Gerard, I was just a few  
19 minutes late in coming in, and you may have indicated  
20 before just how this group got together which you  
21 referred to as an ad hoc committee that was represented  
22 by the representatives of the eight companies. Did you  
23 call that an ad hoc committee?

24 THE WITNESS: Yes.

25 MR. ALLAN: Well, just how did it happen  
26 that they got together?

27 THE WITNESS: Well, as I explained in the  
28 beginning, I had occasion following the Board hearing to  
29 talk to Mr. Alan Rhodes of Ford Motor Company of Canada  
30 who had to be at the Board's offices that particular day,





1 and during the course of the discussion it was determined  
2 between us that we had a common concern dealing with  
3 certain administrative policies and that perhaps these  
4 would be shared by others. So I elected to contact some  
5 of the people I knew who I thought shared my views and  
6 he did likewise. Following this we agreed to get  
7 together and have a meeting.

8 MR. ALLAN: Persons you knew well and whose  
9 thinking you felt you understood?

10 THE WITNESS: Yes, sir.

11 MR. ALLAN: You had the meetings and you  
12 got together. This group was referred to as a lobby I  
13 think in the newspaper as I read it. I don't think  
14 lobbies exist in Canada.

15 THE WITNESS: I don't agree that it was a  
16 lobby.

17 MR. ALLAN: That is, did you consider  
18 this to be a lobby?

19 THE WITNESS: No, sir, it never entered  
20 my mind.

21 MR. ALLAN: And in the preparation of  
22 the brief which seems to have been well done, the motive  
23 for the preparation of the brief was as you have already  
24 stated I think.

25 THE WITNESS: To bring out points of  
26 concern and request change or tightening up, etc.

27 MR. ALLAN: And then some of the companies  
28 dropped out, and had you any thoughts as to why they  
29 dropped out?

30 THE WITNESS: I don't believe it was a



1 question of dropping out; it was a question that they  
2 couldn't support the brief in its present form.  
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1                   One company said it could not support it  
2 in its present form and that was General Motors and the  
3 Ford Company of Canada said no, they wished it revised  
4 and they had a revision with them which they were quite  
5 prepared to submit.

6                   MR. ALLAN: Well, would you think that  
7 the discussion that was being carried on at that time  
8 was in good faith on the part of all of the companies?

9                   THE WITNESS: Yes, sir.

10                  MR. ALLAN: It didn't occur to you that  
11 somebody was dropping you -- was not supporting the brief  
12 in the hope to gain favour with the Workmen's Compensation  
13 Board?

14                  THE WITNESS: No, sir.

15                  MR. ALLAN: Because I think this was really  
16 the spark that set off the investigation. You were there  
17 from the beginning?

18                  THE WITNESS: Yes, sir.

19                  MR. ALLAN: And spent a good deal of time,  
20 I think, and thought in the preparation of the brief which  
21 was a normal presentation to the Board, or the Board or  
22 to the Minister, whichever you decided to do?

23                  THE WITNESS: Yes, sir.

24                  MR. ALLAN: And there was some disagreement  
25 as to whether the brief should be presented to the  
26 Minister or to the Board?

27                  THE WITNESS: There was no disagreement --  
28 there was discussion at the initial meeting as to who  
29 it should be presented to and it was resolved by the  
30 majority that it would be prepared for presentation for



1 the Minister of Labour. That was at the additional  
2 meeting.

3 MR. ALLAN: And then the Manufacturers'  
4 Association seemed to think that it would be better to  
5 present it to the Board.

6 Is that correct?

7 THE WITNESS: It has always been their  
8 policy and practice to approach the Board first; this is  
9 my understanding. But they have liaison with the Board  
10 and in keeping with past practice this is what they wanted  
11 to do. Our Committee agreed to allow them to take the  
12 brief as talking points to the Board.

13 MR. ALLAN: You were interested in <sup>the</sup> cause  
14 and really, from <sup>your</sup> point of view, the cost of accidents,  
15 I believe?

16 THE WITNESS: Yes, sir.

17 MR. ALLAN: Did you know whether all the  
18 companies who were there had been assessed or had been --  
19 what do you call it, the policy, assessment policy?

20 THE WITNESS: Under Section 86 (6a) at  
21 that time?

22 MR. ALLAN: Yes.

23 THE WITNESS: No, I wasn't really aware  
24 that Burlington Steel were under review.

25 MR. ALLAN: This had nothing to do with  
26 your choice of companies? This was purely because -- you  
27 were looking for companies or representatives of companies  
28 who had a common interest?

29 THE WITNESS: Who had a common interest  
30 and had sufficient knowledge of Board operations to be





1 useful in the preparation.

2 MR. ALLAN: Well, thank you very much. I  
3 may think of something else, but I think that is all for  
4 now, Mr. Chairman.

5 THE CHAIRMAN: Mr. Good?

6 MR. GOOD: As to the matter of to whom  
7 the brief should be presented I notice in your original  
8 minutes you said it was unanimously agreed that the  
9 recommendation of the brief should go to the Minister  
10 rather than to the Board and this was because of the  
11 negative experience of approaching the Board previously.  
12 Could you enlarge on that, sir?

13 THE WITNESS: If I recall correctly,  
14 some time in 1966 or early 1967 I served as a member of  
15 the Committee which was a sub-committee of class 7,  
16 certain groups who meet bi-annually, and the question at  
17 one of these committees came up on disablement -- this  
18 was disablement arising out of and during the course of  
19 employment, meaning primarily a disability not occasioned  
20 by accident -- that some consideration or effort on the  
21 Board's part should be made to see that this type of  
22 claim was not included in our accident cost because we  
23 had no control; we couldn't protect a man from disable-  
24 ment. Neither could the I.A.P.A., Department of Labour  
25 or the Board itself.

26 MR. GOOD: You are talking about such things  
27 as silicosis or something like this?

28 THE WITNESS: No, that is a disease.

29 MR. GOOD: What type of thing are you  
30 talking about?



1 THE WITNESS: Any disability not occasioned  
2 by accident. In other words, a man performs a certain  
3 type of work -- he may have performed it for a number of  
4 years and all of a sudden he has an offset of back pain  
5 while performing one specific task in that routine. This  
6 is what we are really talking about.

7 We went to the Board and we met with Mr.  
8 Draper who is the director of safety and Mr. Bill Twist  
9 from I.A.P.A. and Mr. George Black who was claims co-  
10 ordinator at that time, at which time we put our views  
11 and concerns before them and asked that they give con-  
12 sideration as to perhaps thinking of a separate fund,  
13 some way of isolating standard claims and of not including  
14 this in our accident cost because this had a reflection  
15 on increased assessment. It also put us into areas under  
16 experienced ratings whereby we might have enjoyed re-  
17 imbursement, but we were being penalized.

18 MR. GOOD: And you got nowhere with the  
19 Board on that?

20 THE WITNESS: We never heard back from  
21 Mr. Draper. I think it was one year later we finally  
22 mentioned to the general manager of I.A.P.A. that we  
23 had not heard back and some time later Mr. Draper sent  
24 a very short letter saying he had taken it up with the  
25 Board and left it at that.

26 MR. GOOD: Following the second meeting,  
27 at least at the second meeting in January, January 14th,  
28 when the brief was edited as far as its grammatical  
29 content and whatnot, and then copies were sent out to  
30 the representatives, to be shown to top management and



1 then reporting back to the March 2nd meeting of 1970.  
2 At this meeting where the Board and General Motors and  
3 Alcan decided that they couldn't support the brief any  
4 further; did you have an indication at that meeting  
5 whether the representatives of these companies came with  
6 that decision or was that decision arrived at at that  
7 meeting?

8 THE WITNESS: Well, I am sure that they  
9 would have had to come with that decision because they  
10 couldn't speak for top management without having top  
11 management's report.

12 MR. GOOD: But there was no question then  
13 of revising the brief to suit them, it was just a matter  
14 either you accept this brief or you don't become a party  
15 to it; is that correct?

16 THE WITNESS: No, that is not true. The  
17 Ford Motor Company of Canada arrived with a different  
18 version of the brief which they would not have considered.

19 MR. GOOD: They had that with them?

20 THE WITNESS: Yes, sir.

21 MR. GOOD: Now the brief then that was  
22 supported by the Ford Company was discussed at the  
23 meeting of April the 9th, 1970 and at this meeting there  
24 were many industries represented and I have a question  
25 that I don't understand, sir, is that representatives  
26 of all the groups that were there, were they there  
27 representing their companies or were they there because  
28 they had positions on the compensation committee of  
29 C.M.A.?

30 THE WITNESS: They were representatives on



1 the compensation committee of C.M.A. They were the  
2 company's representative, but they had been allocated as  
3 a C.M.A. member to this Committee.

4 MR. GOOD: So that in other words, people  
5 were there from Ford and General Motors were looking  
6 at the same brief that their companies had more or less  
7 turned down at the meeting before?

8 THE WITNESS: Yes, sir.

9 MR. GOOD: And while you were not among  
10 those who were at the meeting at the Workmen's Compen-  
11 sation Board on June 30th, do you have any reason to  
12 believe that they used the same brief as their talking  
13 point as you mentioned before when they appeared before  
14 the Workmen's Compensation Board? Do you believe theirs  
15 was the same brief?

16 THE WITNESS: It wasn't the brief. They  
17 had condensed the contents of the brief and took it to  
18 the Board as talking points. Each item that was raised  
19 in the brief became an item for discussion at the Work-  
20 men's Compensation Board.

21 MR. GOOD: So that the preamble would not  
22 have been brought up at that point?

23 THE WITNESS: No.

24 MR. GOOD: And did you ever get a report  
25 back from the two meetings which you did not attend, as  
26 the Chairman of the group that had originally got -- who  
27 was responsible for the preparation of the brief; did  
28 you ever get a report back from C.M.A.?

29 THE WITNESS: Only the minutes.

30 MR. GOOD: Only the minutes?





1 THE WITNESS: They are filed.

2 MR. GOOD: And they are filed?

3 THE WITNESS: Yes.

4 MR. GOOD: Well, we can get those.

5 And the minutes of the meeting were there,  
6 and did they ask for specific things at that meeting with  
7 the Workmen's Compensation Board? And the second part of  
8 the question is, did they ever get a reply back from the  
9 Workmen's Compensation Board or did anything fruitful  
10 ever result from these two meetings the C.M.A. Compensat-  
11 ion Committee had with the Board to your knowledge?

12 THE WITNESS: It was my personal opinion  
13 that nothing fruitful ever developed.

14 MR. GOOD: Thank you.

15 THE CHAIRMAN: Have you completed, Mr.  
16 Good?

17 MR. GOOD: Yes, thank you.

18 THE CHAIRMAN: Mr. Stokes?

19 MR. STOKES: Yes. Mr. Gerard, you mentioned  
20 in the brief that it was the consensus of the people at  
21 the meeting that there were very good rehabilitation  
22 programs within industry to take care of injured workmen  
23 who were okayed by doctors to return to light duty, and  
24 in answer to a previous question along a similar vein you  
25 indicated that there were very many jobs of this nature  
26 in industry. Have you any idea of how many employees  
27 employed by your company who have been okayed for light  
28 duty you have been unable to place?

29 THE WITNESS: Very few. If the man shows  
30 a willingness to do a certain type of job within his



1 physical limitations as established by, we will say the  
2 plant doctor, we have a good number who carry on and  
3 rehabilitate themselves to this work and back into their  
4 original work in a very short period.

5 MR. STOKES: You say a very few. How many?

6 THE WITNESS: Sir, I couldn't give you  
7 the figures.

8 MR. STOKES: In your talks with other  
9 members of this ad hoc committee and your experience  
10 generally, would you say that that is the case, that  
11 there are very, very few employees who have been okayed  
12 for light duty who you are unable to place?

13 THE WITNESS: I can't speak for any other  
14 members of the Committee, but perhaps <sup>the</sup> question could  
15 be posed to them.

16 MR. STOKES: How many employees, say, of  
17 Stelco who are on partial temporary disability now would  
18 you say are there because you can't find light duty  
19 for them?

20 THE WITNESS: Sir, I don't quite follow  
21 the question, sir.

22 MR. STOKES: Well, you have said you have  
23 a very good rehabilitative program and that anybody who  
24 is willing to work that you can find a job for them.

25 THE WITNESS: Well I said, sir, we attempt  
26 to rehabilitate all of our injured employees if possible.

27 MR. STOKES: Well if I were to give you  
28 the names of six employees of Stelco who are in such a  
29 position would you be able to find a job for them?

30 THE WITNESS: If you would care to give me



1 the six names and allow me the opportunity to investigate  
2 all the circumstances I will be quite prepared to give  
3 you an answer.

4 MR. DONNELLY: I don't think it's necessary  
5 to pursue particular cases, with respect, Mr. Chairman.

6 MR. STOKES: Why did you mention or why  
7 was it mentioned in the brief that it was a futile effort  
8 to go to the Board, that you felt that some labour unions  
9 found it more appropriate or more fruitful to go directly  
10 to the Minister; that possibly that was the avenue that  
11 you should pursue as an ad hoc committee?

12 THE WITNESS: I don't believe the word  
13 "futile" was used.

14 MR. GOOD: Negative experience?

15 THE WITNESS: Negative experience is what  
16 was said. I have already answered this question for Mr.  
17 Good. Insofar as unions going to the Minister of Labour,  
18 I think anyone has the right to go to the Minister of  
19 Labour. They have done this on several occasions when  
20 they were seeking amendments to the Act so we are only  
21 exercising our prerogative which we believe we had to.

22 MR. STOKES: Did you in fact go to the  
23 Minister?

24 THE WITNESS: No, sir.

25 MR. STOKES: Why?

26 THE WITNESS: C.M.A. had taken -- we had  
27 allowed C.M.A. to adopt the brief as talking points with  
28 the Board. I have already said that I don't believe  
29 anything fruitful was gained and for clarification,  
30 the point I think you are trying to make, prior to this



1 breaking out in the newspaper we -- a number of people  
2 were commencing proceedings to form the committee to  
3 attempt to do just what we wanted to do, to accomplish  
4 this.





1 MR. STOKES: So you didn't find it  
2 necessary to go to the Minister?

3 THE WITNESS: I am sure the ad hoc  
4 committee would have found it necessary to go to the  
5 Minister.

6 MR. STOKES: I don't know if you are  
7 aware of previous testimony -- I think it was on the  
8 previous day of testimony, Mr. Draper was purported to  
9 have made a speech before a group of people where he  
10 was rather firm in some of the things that he said with  
11 regard -- sort of a condemnation of industry generally.  
12 Were you at the meeting?

13 THE WITNESS: The meeting held here?

14 MR. STOKES: No, the meeting at which  
15 Mr. Draper addressed a group of people who were concerned  
16 about safety.

17 THE WITNESS: I have never attended a  
18 meeting where Mr. Draper was the speaker at any time.  
19 I have had a personal meeting with Mr. Draper and members  
20 of the Class 7 sub-committee as I indicated earlier.

21 MR. STOKES: So you weren't present at  
22 he  
23 a meeting where/is purported to have said that one  
24 fairly large company was going to be assessed in excess  
25 of \$300,000.00 for an unsafe working place?

26 THE WITNESS: No, sir, I was at no such  
27 meeting, but I believe it was Mr. Legge who was alleged  
28 to have made that statement, sir.

29 MR. STOKES: I thought it was Mr. Draper.  
30 If in fact it was Mr. Legge, do you  
know what company he was referring to?



1 THE WITNESS: No, sir.

2 MR. STOKES: It wouldn't have been one  
3 of the ad hoc committee?

4 THE WITNESS: I couldn't say, sir.

5 MR. STOKES: That's all I have.

6 THE CHAIRMAN: At this time I want to  
7 remind the Committee that we have allowed this afternoon,  
8 in connection with this witness -- we have allowed you  
9 to range pretty far and wide. As I understand it this  
10 portion of our hearing is concerned with penalties and  
11 remission. I realize the briefs and the material that  
12 you have filed with the Committee are leading up to  
13 some of the things we are looking for, but I would  
14 remind Committee that some of the matters we were  
15 questioning the witness about are really not related to  
16 the subject at hand.

17 Mr. Gaunt?

18 MR. GAUNT: Mr. Chairman, I notice on  
19 Page 4 of the brief you make reference there to the  
20 fact that the Board was more concerned with improving  
21 its image than it was with the accuracy of adjudication;  
22 the second paragraph. What do you mean by that?

23 THE WITNESS: Getting the payments out  
24 much quicker to injured workmen.

25 MR. GAUNT: So the thrust of what you  
26 were saying in that particular paragraph was that the  
27 care wasn't being taken in the initial stages?

28 THE WITNESS: In the initial adjudication.  
29 In other words, they were sacrificing quality for  
30 quantity.



1 MR. GAUNT: Now, I can't -- I can't sort  
2 of link that with the following paragraph in which you  
3 point out that in the appeals system the employer has  
4 a very poor record; in other words, the appeals system  
5 for the most part grants the appeal to the employee,  
6 which would tend to indicate to me that there is a fair  
7 bit of accuracy in the initial adjudication. Do you  
8 have a different interpretation?

9 THE WITNESS: Let's say that the workman  
10 or claimant enjoys much more success than does industry.

11 MR. GAUNT: And how do you account for  
12 that against what you said earlier on in the brief?

13 THE WITNESS: Personal experience.

14 MR. GAUNT: I was interested in reading  
15 a press report in the Globe and Mail dated Saturday,  
16 March 11th, and in that report Mr. Rae, whom I believe  
17 is associated with Chrysler, or at least he was at that  
18 time, made the comment that there was no question that  
19 meetings were initiated by G.M., Ford and  
20 his own company, Chrysler.

21 I had understood it was at your initiative that these  
22 meetings took place. How would Mr. Legge get that  
23 impression?

24 THE WITNESS: I would think that you  
25 would have to ask Mr. Rae that, sir.

26 MR. GAUNT: You make the comment that  
27 the brief was strictly confidential; that you didn't  
28 want to make any comment on it when you were asked by  
29 the press about it. Why would it be so strictly  
30 confidential? Was there some reason? Was there some



1 tacit agreement between the employers that this would be  
2 kept strictly secret?

3 THE WITNESS: I considered it a confidential  
4 brief and not a subject for the newspapers. There are  
5 ways and means such as what we were suggesting in trying  
6 to go to the Minister of Labour to get what we felt were  
7 good, modified recommendations, and I don't think it is  
8 a subject for the newspapers.

9 MR. GAUNT: But yes, all right, let me  
10 put it this way: it may not be a subject for the  
11 newspapers, but having been asked by the newspapers about  
12 it, were there any strictures placed on you not to comment  
13 on it?

14 THE WITNESS: No, sir, other than I  
15 considered myself it was a private matter and I wasn't  
16 at liberty to discuss it. There were other members of  
17 the committee, the three of us, that supported it and  
18 I certainly wasn't prepared to speak for them.

19 MR. GAUNT: So you just had this feeling  
20 that you weren't prepared to discuss it with the press  
21 in any way, shape or form?

22 THE WITNESS: No, sir.

23 THE CHAIRMAN: Mr. Allan?

24 MR. ALLAN: Well, Mr. Gerard, just  
25 referring to your last statement there, I take it that  
26 the matter that is being referred to is the brief that  
27 was prepared by the ad hoc committee and which it would  
28 seem to me was purely between companies. certainly  
29 I wouldn't think that you were in a position to speak  
30 for the Steel Company of Canada or any one of the





1 companies at that stage, were you?

2 THE WITNESS: No, sir.

3 MR. ALLAN: And I don't see anything  
4 unusual in your considering that a confidential matter.

5 THE WITNESS: Nothing at all.

6 THE CHAIRMAN: Mr. Miller?

7 MR. MILLER: I would like to go back to  
8 some of the things that I learned in the first day of  
9 our hearings when we discussed Section 86(7). It was  
10 explained to us in detail that the 100% levy was to act  
11 as a deterrent to companies whose accident records were  
12 bad, and that when they instituted safety measures that  
13 passed the particular association to which they belonged,  
14 the appeal was usually granted. Now, the thing that  
15 concerns me is that some companies seem to get consecutive  
16 annual levies and when there are appeals several years  
17 in a row. I want your opinion to tell me whether you  
18 feel these companies are able to avoid their levy by  
19 putting in temporary measures or in fact whether there  
20 are times when their productivity is at a low rate. I  
21 would think it is the responsibility of the companies  
22 that the measures are rather permanent than temporary.

23 THE WITNESS: I am sorry, sir, I can  
24 only speak for my own company.

25 MR. MILLER: You have only had the one  
26 levy, have you?

27 THE WITNESS: No, we have had one levy  
28 against two different works, Welland Tube and Page-  
29 Hersey.

30 MR. MILLER: I would have thought a person



1 like yourself devoted to safety measures would have a  
2 pretty good idea, though.

3 MR. BOOTH: We haven't qualified him as  
4 an expert.

5 THE CHAIRMAN: I must remind Counsel  
6 that I realize that he hasn't been present at other  
7 hearings, but Counsel must put his question or answer  
8 through Committee Counsel.

9 MR. DONNELLY: I think Counsel is making  
0 an objection there that his witness is not an expert  
1 and therefore not qualified to pass an opinion.

2 MR. MILLER: Well, luckily the rules of  
3 the courtroom don't apply to this Committee, and  
4 therefore we are allowed to obtain opinions at times.

5 Are you willing to answer?

6 THE WITNESS: I am afraid you will have  
7 to restate the question.

8 MR. MILLER: Oh. Well, it took me too  
9 long to ask it the first time.

0 In all honesty, suppose in other words  
1 all steel companies in Ontario are in one rating group  
2 by Workmen's Compensation Board standards, it would  
3 be in your interest to see that no company was abusing  
4 this particular means of avoiding a levy?

5 THE WITNESS: Well, Schedule 1 of the  
6 Act which the Steel Company of Canada is under or is  
7 included in is a collective liability system and the  
8 manufacturing process, basic steel, etc. -- allocated  
9 to classes -- yes, it is in the interest of everyone  
10 to see that accident prevention measures are established,



1 etc. in an effort to get in a decreased assessment.

2 MR. MILLER: I wasn't trying to be sneaky,  
3 I was trying to find out for example whether 86(7) was  
4 achieving its stated purpose; in other words, whether it  
5 was insisting on an improvement in safety standards or  
6 whether it was something that could be got around.

7 THE WITNESS: I think if you read the  
8 section in the brief it clearly highlights that we  
9 agree with Section 86(6a) but there are certain things  
10 that we don't agree/in the manner in which it is handled  
11 and this is the same type of injury etc.

12 THE CHAIRMAN: Have you completed, Mr.  
13 Miller?

14 MR. MILLER: Yes, sir.

15 THE CHAIRMAN: Mr. Newman has one question.

16 MR. NEWMAN: Mr. Gerard, have you had  
17 many direct meetings with the Board per se or with the  
18 Chairman yourself?

19 THE WITNESS: I have had no personal  
20 meetings with the Chairman; I have appeared before the  
21 full Board upon matters of hearing.

22 MR. NEWMAN: And I gather from your  
23 discussion here to say that your meetings have been  
24 rather frustrating?

25 THE WITNESS: At times.

26 MR. NEWMAN: Do you find it is the  
27 attitude of the Board rather than the policy of the  
28 Board that bothers you?

29 THE WITNESS: I would be more inclined  
30 to believe it was policy.



1 THE CHAIRMAN: Mr. Maeck?

2 MR. MAECK: Yes, Mr. Chairman. I think  
3 the main reason this Committee is sitting here today is  
4 to find out whether or not our witnesses have any  
5 knowledge regarding the fact that these auto firms  
6 withdrew from this presentation or the lobby -- withdrew  
7 from your presentation.

8 THE CHAIRMAN: Mr. Allan says it wasn't  
9 a lobby.

10 MR. MAECK: No, let's say it was a  
11 presentation. And that is to your knowledge do you  
12 know whether any of these firms that withdrew from the  
13 presentation in the hopes that the appeals would be  
14 granted by the Board?

15 THE WITNESS: No, sir, I don't know.

16 MR. MAECK: I think that's all I really  
17 have to know from this witness.

18 THE CHAIRMAN: Mr. Good?

19 MR. GOOD: The one thing that hasn't  
20 been pursued, Mr. Gerard. Your assessments against  
21 Page-Hersey and Welland Tube and what was the other  
22 company?

23 THE WITNESS: Page-Hersey and Welland  
24 Tube.

25 MR. GOOD: You appealed both decisions,  
26 right?

27 THE WITNESS: Yes, sir.

28 MR. GOOD: And the levies were never paid,  
29 or were they paid and remitted or how ---

30 THE WITNESS: Steel Company of Canada paid





1 both levies on appeal.

2 MR. GOOD: And won both appeals?

3 THE WITNESS: We were successful in  
4 establishing with the Board that we did have a good  
5 accident prevention program.

6 MR. GOOD: What I wanted you to do was  
7 describe what you had to go through to establish a  
8 successful appeal. Now we have heard from the Workmen's  
9 Compensation Board side, but what did you have to change  
10 or what new safety scheme did you have to set up, or  
11 was there a mistake made in the original levy or in  
12 your opinion how does one successfully appeal an  
13 assessment?

14 THE WITNESS: We really didn't change  
15 anything. The program was there and we were able to  
16 prove to the Board, to their satisfaction, that the  
17 few high cost claims did not indicate that we did not  
18 have a program or a good program, and that it was these  
19 few high cost claims that put us into the penalty area.  
20 We pointed out to them what we were doing, why we were  
21 doing it and how long it had been in effect and what  
22 measures we take pertaining to certain things. For an  
23 example, when we purchased Page-Hersey works, part of  
24 that plant was an old acetylene line which on one  
25 occasion blew up and burned a man to the  
26 tune of about a \$30,000.00 compensation cost. Rather  
27 than repair the acetylene line we put in a whole new  
28 natural gas line. You know, we brought out things of  
29 this nature.

30 MR. GOOD: But with an adequate safety



1 program, how do you get the original assessment?

2 THE WITNESS: Because our costs exceeded  
3 our put in rather than premium.

4 That is only one part. Our frequency  
5 was 20% higher in the two years under review and the  
6 current year was also showing our costs were greater.

7 MR. GOOD: And the reason your costs  
8 were greater was because you had more accidents; is  
9 that right?

10 THE WITNESS: What I said, sir, is that  
11 a few accidents do not necessarily mean that you don't  
12 have a program. Two or three for example were high cost  
13 claims. One I just mentioned was \$30,000. I can  
14 give you another example, we had a man who fell off a  
15 crane girder and was, as assessed by the Board, killed,  
16 but it was established prior to him falling off by his  
17 doctor he was suffering from a heart condition.  
18 There didn't seem to be any reason why he fell off,  
19 but perhaps he had a heart attack and this caused  
20 him to fall.

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1                   There are these kinds of claims that we  
2 can bring to the Board's attention.

3                   MR. GOOD: You didn't institute any new  
4 safety programs, they were all there, and it was just the  
5 basis that your few high cost decisions created your  
6 assessment -- at least your payment for that year?

7                   THE WITNESS: We didn't initiate any new  
8 program. We may have tightened up on one we had

9                   MR. GOOD: You tightened up on what?

10                  THE WITNESS: We may have tightened up on  
11 the one we had.

12                  MR. GOOD: You may have tightened up on  
13 the one you had.

14                  What is the length of time between the  
15 time the assessment was made and the time when you  
16 appealed it and when you were notified that you had  
17 launched a successful appeal?

18                  THE WITNESS: I don't have those records.

19                  MR. GOOD: Could you give us an idea? In  
20 months, how long did it take?

21                  THE WITNESS: I would say less than six  
22 months.

23                  MR. GOOD: From the time of the assessment  
24 and the appeal and then you were notified in less than  
25 six months?

26                  THE WITNESS: Yes, sir.

27                  MR. GOOD: One final question: you have  
28 said regarding nonaccident claims/should be taken out of  
29 your accident experience before the levies have been  
30 figured?



1 THE WITNESS: Yes, sir.

2 MR. GOOD: Other than that you feel the  
3 method by which the computer takes out the levies is  
4 just?

5 THE WITNESS: If they are true actions and  
6 costs, yes.

7 THE CHAIRMAN: Mr. Gaunt?

8 MR. GAUNT: I just have one question,  
9 Mr. Gerard. What happens -- you mentioned that Stelco  
10 paid the fees for Page-Hersey and for Welland Tube,  
11 presumably that money was returned?

12 THE WITNESS: Yes.

13 MR. GAUNT: Is that the normal procedure?

14 THE WITNESS: It was normal for us, sir.

15 MR. GAUNT: Are there ever occasions when  
16 the levy is made when you don't pay and you go through  
17 the appeals system hoping to win?

18 In other words, I am trying to establish  
19 what the norm is, once you receive the levy do you pay it  
20 and then hope to get it back when you go through the  
21 appeals system?

22 THE WITNESS: When the Board levied the  
23 assessment against us they felt it was a bonafide charge  
24 within the terms of the Act. We naturally paid it and  
25 exercised the appeal procedures that were available to  
26 us.

27 MR. GAUNT: But under normal circumstances  
28 it would always be a bonafide levy, would it not?

29 THE WITNESS: In the Board's eyes, yes.

30 MR. GAUNT: So that in your eyes if it





1 hadn't been would you not have paid it?

2 THE WITNESS: We didn't consider it to be  
3 bonafide but we paid and then exercised our right with  
4 the appeal procedure.

5 MR. GAUNT: So what happens, it takes  
6 roughly six months to go through the appeals system?

7 THE WITNESS: In our case it took probably  
8 less than six months. I can't account for any other firm.  
9 They may / <sup>achieve</sup> it in less time.

10 MR. GAUNT: And if you are successful you  
11 just get your money back that you have paid,  
12 there is no extra interest on the use of your money for  
13 that period of time?

14 THE WITNESS: I believe we got an equal  
15 sum to that paid.

16 THE CHAIRMAN: Thank you, Mr. Gaunt.

17 MR. STOKES: I have one final question.  
18 Mr. Gerard. In answer to the question that Mr. Gaunt  
19 asked earlier, you said it was your experience that the  
20 employee won out much more often than the employer. Do  
21 you see it as that kind of a relationship? And I am going  
22 to ask it in this context: you paid premiums on behalf  
23 of workmen according to the class that the Workmen's  
24 Compensation puts you in and you say, as a result of the  
25 adjudication, that much more often the employee wins out  
26 rather than the employer. Do you see it as that kind of  
27 relationship, that it is sort of an adversary system between  
28 the employer and the employee with the Board acting as an  
29 adjudicator rather than as a sort of partnership where you  
30 contribute to a fund to ensure that an injured workman is



1 amply taken care of during a period of injury? I'm  
2 wondering, would you like <sup>me</sup> to rephrase that or would you  
3 say it is that kind of relationship?

4 THE WITNESS: What I said, sir, was that  
5 the cases where the employee is injured had much more  
6 success than did the employer on appeal. I say this,  
7 and I speak for the Steel Company of Canada, we only  
8 appeal the claim if we do not believe that the man is  
9 entitled under the Act to compensation. We don't inter-  
10 pret the Act, the Board does that. I would have you  
11 also know, sir, that the Steel Company of Canada, and  
12 it's on record -- it can be established that claims have  
13 been rejected by the Compensation Board and the company  
14 has appealed on behalf of the man because we felt he had  
15 entitlement.

16 MR. STOKES: So, in other words then, you  
17 feel it's not all a one-way street. you know, you are  
18 just as concerned about the workman as the Board is and  
19 where there is an obvious injustice you would intervene  
20 on behalf of a workman and have indeed done so?

21 THE WITNESS: Yes, sir.

22 MR. STOKES: So you don't see it as a sort  
23 of an adversary system; you are just as concerned about  
24 the workman as the workman himself?

25 THE WITNESS: Yes, sir.

26 THE CHAIRMAN: Have the Committee completed  
27 their questioning of this witness?

28 Mr. Gerard, you may be excused, and thank  
29 you very much for a very valuable contribution this  
30 afternoon.



We will adjourn for a recess for 15 minutes.

--- Upon recessing at 4:00 p.m.



1 --- Upon resuming at 4:35 p.m.

2  
3 THE CHAIRMAN: We will resume, Counsel,  
4 where we left off and you were going to call your second  
5 witness.

6 MR. DONNELLY: Mr. Carter, please.

7 THE CHAIRMAN: (Swears the witness)

8  
9 JOHN MARSHALL CARTER, Sworn:

10  
11 EXAMINATION BY MR. DONNELLY:

12  
13 Q. Mr. Carter, your full name, sir?

14 A. John Marshall Carter.

15 Q. And you are with the Ford Motor  
16 Company, are you?

17 A. That's right, sir.

18 Q. What position do you hold there,  
19 sir?

20 A. I am the Personnel Services Manager  
21 at the Head Office building.

22 Q. How long have you held that position,  
23 sir?

24 A. Six months.

25 Q. And you are appearing with your  
26 counsel, Mr. ---

27 A. Mr. Miles Merwin.

28 Q. Mr. Carter, I understand you wish  
29 to make a statement for the record, is that correct?

30 A. Yes, sir.





1 Q. You may proceed now.

2 A. Thank you.

3 Mr. Chairman, gentlemen, on March 29th,  
4 when this session was first held, this meeting, Mr. Ken  
5 Hallsworth, the Vice-President, Industrial Relations,  
6 of Ford Motor Company made a statement which was at that  
7 time given to the members of the Committee. I understand  
8 that that is not part of the record and I would like to  
9 either file it so that it can become part of the record  
10 or, if you prefer, I would read the statement into the  
11 record.

12 MR. DONNELLY: The Committee have indicated  
13 it would be adequate for you to file it.

14 THE WITNESS: Thank you very much, I will  
15 file it.

16 EXHIBIT NO. 87: Statement to Committee by Kenneth  
17 Hallsworth, dated March 29th, 1972.

18 Q. Do I understand it has already been  
19 read into the record on an earlier occasion but no formal  
20 record kept?

21 MR. GAUNT: That's right.

22 MR. DONNELLY: Q. Your statement is  
23 accepted as filed, sir, and the Committee don't require  
24 you to reread it into the record.

25 Are you content to proceed now, sir?

26 Mr. Gerard has given evidence regarding  
27 the preparation of a brief that was prepared by an ad hoc  
28 committee at which Ford Motor Company participated. The  
29 article in the Globe and Mail made reference to the fact  
30 that they stated we withdrew from the lobby they called  
it and, as a result, the whole committee collapsed. My



1 purpose now is to put into the record certain information  
2 which I think will show that the report as it appeared in  
3 the paper was incorrect; that we did not withdraw from  
4 any lobby, and furthermore, we did proceed along other  
5 routes with process and getting a hearing regarding some  
6 complaints that we felt were justified regarding the  
7 administrative offices of the Workmen's Compensation  
8 Board.

9 The first part Mr. Gerard has covered  
10 regarding the setting up of the ad hoc committee and the  
11 first involvement that I became involved in was when  
12 Mr. Al Rhodes, who was one of the members of the committee,  
13 told me about it and asked if it would be all right for  
14 this committee meeting to be held on the Ford property  
15 and use our facilities and I said, "Certainly, we would  
16 be very happy to be the host to this group."

17 I was not involved in any of the meetings  
18 that were held and the first official notice I had of  
19 their proceedings was when I received from Mr. Rhodes  
20 a copy of the draft of the brief that the ad hoc committee  
21 had prepared, following their second meeting which was  
22 held at Stelco. When I read that brief, I was surprised  
23 at some of the language that was used, the emotionalism  
24 that was expressed and I certainly did/feel that that  
25 was the type of communication which we would want to pass  
26 on to any members of government. However, I passed the  
27 brief on to the various plant managers, five industrial  
28 relations managers and asked them if they would take a  
29 look at this brief and let us have their comments regarding  
30 any changes that they might think would be desirable.



1 As a result of this review that was made  
2 by the various industrial relations managers of the  
3 various plants, I got certain comments back, including  
4 one which was a complete rewrite of the brief which was  
5 done by one of our plant managers and his industrial  
6 relations staff; they had taken all of the comments, the  
7 criticisms of the points that had been raised in the  
8 original brief and they had rewritten the words so that  
9 if it was put into language what we thought would be  
10 acceptable and appropriate to change the purpose intended  
11 to get the attention of the people who could do something  
12 about changing some of the administrative practices of  
13 the Board which we felt were unfair.

14 After we had gone over this rewritten  
15 brief, I gave several copies to Mr. Rhodes who at that  
16 point was getting ready to attend the third meeting  
17 which was now scheduled to be held at Oshawa and I gave  
18 him the rewrite and I said, "This is the presentation  
19 or brief that Ford will be prepared to support if the  
20 committee wished to go along with this type of a brief,"  
21 but we couldn't put our names to the original brief that  
22 they had sent down to us.

23 Mr. Rhodes took several copies of what I  
24 could call the Ford brief at this point and took it to  
25 the meeting at Oshawa and I wasn't there so whatever I  
26 say about what happened at the meeting is only on the  
27 basis of what Mr. Rhodes told me immediately following  
28 that meeting the next day.

29 I understand that there were no minutes  
30 taken at that meeting; I haven't seen any; I believe



1 Mr. Gerard said that there were no minutes. However,  
2 immediately following my conversation with Al Rhodes on  
3 March 3rd, the day after the meeting, Al Rhodes and  
4 Al Maher, I believe, came to my office to brief me on  
5 what had happened down at Oshawa. I did make some hand-  
6 written notes which I have kept and which I will refer to  
7 to express as best I can what I understand happened at  
8 that meeting on Monday, March 2nd, at Oshawa.

9 I have one note here that:

10 "Chrysler were not represented  
11 (Sandy Ray has been moved off

12 compensation) but the chairman,

13 K. Gerard, read a letter from Paul Tuz

14 which explained that they would

15 make their position clear through

16 the review of the brief by the

17 Motor Vehicles Manufacturers'

18 Association Workmen's Compensation

19 Committee."

20 "Ford of Canada was the only organ-  
21 ization to present a rewritten brief.

22 Most of the others had come with the

23 authority to support the original

24 brief to the C.M.A. Consequently,

25 they were not in a position to

26 support the Ford rewrite, particularly

27 since they had not had an opportunity

28 to ascertain what changes had been

29 made from the original brief. We

30 maintained it was essentially the

same as the original with the





1 exception that the emotional and  
2 subjective comments had been deleted  
3 or modified. One company felt the  
4 brief should be written in even  
5 stronger language."

6 That company wasn't identified to me.

7 " I noted for General Motors they  
8 appeared to be on the fence. They  
9 had not completed their study, had  
10 reservations about the tone of the  
11 original brief and wished to give  
12 the matter further consideration."  
13 "Four delegates indicated they were  
14 not authorized to support the original  
15 brief because of its tone. The  
16 various steel company representatives  
17 stated that they wanted the original  
18 brief to go forward to the C.M.A.  
19 who could then invariable changes  
20 they wished to make in the language.  
21 It was decided that those in favour  
22 of the original brief would arrange  
23 a covering letter and submit it to  
24 the C.M.A. in two weeks. Ford  
25 representatives indicated that the  
26 second brief from the M.V.M.A. would  
27 probably be also submitted to the  
28 C.M.A."

29 Those are just the notes I made and I would like to submit  
30 the Ford -- the brief that Ford originally rewrote which



1 was presented at that meeting and which didn't get the  
2 support of the other four companies.

3 Q. Have you a copy of that with your  
4 file, sir?

5 A. Yes, sir, I have.

6 There is also a letter which I have here  
7 which I am prepared to read which was -- I wrote on  
8 February 26th to Mr. Hallsworth, my Vice-President, and  
9 a copy to Mr. Scott, our President.

10 MR. GOOD: What is the date?

11 THE WITNESS: "Proposed Brief to the CMA  
12 Re Workmen's Compensation Board  
13 Practices."

14 This was the letter I sent along with the original  
15 proposed brief, my letter dated February 26th, 1970.

16 "A few months ago some of the in-plant  
17 Workmen's Compensation Co-ordinators,  
18 in talking with their associates  
19 in other industries, decided to have  
20 an informal meeting to discuss the  
21 problems they were encountering in  
22 keeping Workmen's Compensation benefit  
23 costs down. This meeting was held  
24 at Oakville and included, in addition  
25 to the Oakville Assembly plant, the  
26 Ontario Truck plant and Windsor  
27 operations, representatives from  
28 Alcan, International Harvester,  
29 General Motors, Burlington Steel,  
30 Chrysler of Canada, American Motors



1 and Steel Company of Canada. This  
2 'ad hoc' committee decided that the  
3 approach they should take towards  
4 solving their problems was to present  
5 a brief, through official channels,  
6 to the Minister of Labour, explaining  
7 the current Workmen's Compensation  
8 Board practices which were creating  
9 the problems of increased benefit  
10 costs and recommending necessary  
11 changes.

12 This group listed their primary  
13 complaints and drafted a brief  
14 suggesting changes. This brief  
15 was then circulated through the  
16 management of the various companies  
17 in order to obtain corporate approval.  
18 The original draft was highly  
19 critical of the Workmen's Compen-  
20 sation Board's interpretations and  
21 practices and was written in an  
22 emotional and subjective manner  
23 which was inappropriate for the  
24 purpose it was designed to accom-  
25 plish, i.e., influence the Minister  
26 of Labour to have the Board review  
27 its practices. The basic complaints,  
28 however, were valid and we at Ford  
29 of Canada decided to support their  
30 recommendations.



-1496-

Carter,

1 Consequently, we have completely  
2 rewritten the brief, putting it into  
3 acceptable language, while incorpor-  
4 ating all the basic problem areas  
5 and recommended actions. We are  
6 returning a proposed brief to the  
7 'ad hoc' committee so that they may  
8 incorporate the write-ups from the  
9 other companies into a consolidated  
10 brief.

11 We will then review the final product  
12 to see if we are prepared to put  
13 our corporate name behind it. When  
14 this is done, the brief will be  
15 submitted to the CMA Workmen's  
16 Compensation Committee for review  
17 and to obtain CMA endorsement, who  
18 will then present a CMA brief to the  
19 Minister of Labour.

20 I am enclosing for your information,  
21 a copy of the revised brief which  
22 we have prepared and which we will  
23 be forwarding to the Compensation  
24 Co-ordinator Committee as representing  
25 Ford of Canada's position in this  
26 matter.

27 (signed)  
28 J. M. Carter

29 Manager, Training & Development"

30 which was the position I held at that time.

EXHIBIT NO. 88:

Copy of Ford of Canada brief.





1 Q. Could that be filed also, please?

2 EXHIBIT NO. 89: Letter to Mr. K. Hallsworth from  
3 J. M. Carter, dated February 26th,  
4 1970.

5 A. I am submitting that, gentlemen, on  
6 the basis that I think it establishes very clearly the  
7 reason why we decided to rewrite our brief and it was  
8 still our intention at that time to go ahead with the  
9 CMA and with the "ad hoc" committee. This was prior  
10 to the March 2nd meeting in Oshawa.

11 Following the meeting at Oshawa when our  
12 people came back and told me about the results of the  
13 meeting, we had been unable to agree as a group on a  
14 common brief, I took the matter up with the Motor Vehicle  
15 Manufacturers' Association. Now the question was asked  
16 of Ken Gerard who the M.V.M.A. are. Well, as I understand  
17 it, it is an association that represents the vehicle  
18 manufacturers and they have various committees -- the  
19 only two that I am familiar with are the Workmen's  
20 Compensation Committee and the Safety Directors' Committee,  
21 the latter because at one time I was a member of that  
22 Committee and, when this was going on, I was a member of  
23 the Safety Directors' Committee of the Motor Vehicle  
24 Manufacturers' Association.  
25  
26  
27  
28  
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30



1 I might add that prior to the Ottawa  
2 meeting I had been attending a meeting of the safety  
3 directors of the M.V.M.A. and I had told them about this  
4 ad hoc committee that was going with a brief and the  
5 safety directors' committee indicated that this would  
6 probably be a good thing for the Workmen's Compensation  
7 Committee of the M.V.M.A. to get familiar with because  
8 possibly they would be able to help in the preparation  
9 of this brief. So consequently when I was advised that  
10 we were no longer a part of the ad hoc committee I got  
11 in touch with the Motor Vehicle Manufacturers' Association  
12 office and we arranged for a subsequent meeting -- I  
13 believe it was the Workmen's Compensation Committee --  
14 to discuss what we should do regarding the Ford rewrite  
15 of the original brief as far as carrying it forward be-  
16 cause we -- as we indicated earlier, had felt that there  
17 was merit to the points that were made in the brief and  
18 we were still anxious to see that those views were  
19 expressed.

20 The letter was addressed to the Workmen's  
21 Compensation Committee and the Safety Directors' Committee  
22 from the Secretary of the M.V.M.A. on April 1 which  
23 convened the meeting for April the 8th and I will read  
24 the part that is germane: "At a recent Safety Directors  
25 meeting, members were informed of the  
26 activities of ad hoc committee of  
27 compensation administrators, includ-  
28 ing some automotive industry personnel.  
29 They have drafted a proposed sub-  
30 mission to the Ontario Minister of



Labour largely criticizing some of the  
current administrative practices of the  
Ontario Workmen's Compensation Board  
as well as some sections of the Act.  
This has been presented to the  
appropriate committee of the Canadian  
Manufacturers' Association for further-  
ance. I understand that committee  
(CMA) is meeting Thursday, April 9 to  
consider what action, if any should be  
taken. It was suggested at our  
Safety Directors meeting that the  
M.V.M.A. committee take a look at the  
matter in the same light. We are  
attaching another draft prepared by  
Mr. Jack Carter. (It wasn't mine, it  
was one I gave them) Although similar  
in outline, the choice of wording is  
substantially different. Your ad-  
vance study of this brief is encouraged  
so as to facilitate a decision at your  
meeting on the 8th."

At a meeting on April the 8th and 9th--it  
lasted for two days.

MR. DONNELLY: Excuse me, sir. I wonder  
if that letter could be filed?

EXHIBIT NO. 90: Letter to Workmen's Compensation  
Committee and Industrial Safety  
Directors Committee from Russell C.  
Fair, Secretary - Committees, dated  
April 1, 1970.

MR. DONNELLY: Perhaps if I don't interrupt



1 you again I think it is preferable if you read from a  
2 document whether it could be just entered as a matter of  
3 course.

4 THE WITNESS: On April the 8th there was  
5 a meeting held at the offices of the Motor Vehicle  
6 Manufacturers' Association. Unfortunately, although I  
7 have been so involved in the Ford brief, I can't recall  
8 what the circumstances were, but I was unable to attend  
9 that meeting. However, Mr. Jack Douglas who was the  
10 Chairman of the Workmen's Compensation Committee is with  
11 Ford Motor Company and we had Mr. Rhodes who was one of  
12 the co-ordinators of the ad hoc committee also attended  
13 to give continuity as I wouldn't be there. At this  
14 meeting one of the items discussed was the proposed  
15 brief to the Minister of Labour. "Before proceeding to the

16 content of the brief it was agreed  
17 that as the majority of points covered  
18 in the draft mailed out to members on  
19 April 1 related to administrative  
20 functions and interpretations by the  
21 Board, the brief should more correctly  
22 be forwarded to the Chairman, Mr.  
23 B.J. Legge, rather than the Minister  
24 of Labour."

25 So the decision of the M.V.M.A. to not go to the Minister  
26 of Labour, but rather to go to the Workmen's Compensation  
27 Board was made through the Compensation Committee of  
28 the M.V.M.A.

29 "Discussion then centred on the areas  
30 of concern to be covered in the brief  
and it was agreed the following points





1 should be included..."

2 And we listed the same areas, "Adjudication procedures,  
3 Appeals Structure, Disablement 'aris-  
4 ing out of ...', Section 22 regulations,  
5 Modified work and rehabilitation,  
6 Local investigations, Fraud, Recovery  
7 of Overpayments."

8 Now, these were all the headings of the original ad hoc  
9 committee brief.

10 "It is anticipated other items may  
11 be added such as section 86 (6a) and  
12 the use of social insurance numbers,  
13 depending on timing. Each item was  
14 reviewed and changes made in content  
15 where it was deemed necessary by  
16 members present.

17 All present were reminded of the  
18 meeting on April 9 of the C.M.A.  
19 Ontario Division, Workmen's Compensat-  
20 ion Committee to discuss submission  
21 of a similar brief and as the hour  
22 was 5:00 p.m. the meeting was re-  
23 cessed with members agreeing to re-  
24 convene following the C.M.A. meeting  
25 the next day.

26 Members met again in the after-  
27 noon of April 9 to continue consider-  
28 ation of the aforementioned points.  
29 At the conclusion the Secretary was  
30 directed to redraft the brief and send



1 it to members for further study. If  
2 necessary another meeting would be  
3 called, otherwise it is intended the  
4 brief will be forwarded to the  
5 Directors of the Association for  
6 approval."

7 So that roughly covers the activities of the M.V.M.A.  
8 and their participation in working on this second brief  
9 and also the fact that some of the members did go over  
10 on the morning of April the 9th and did attend the C.M.A.  
11 Compensation Committee meeting when the original ad hoc  
12 committee brief was being considered by their Compensation  
13 Committee.

14 EXHIBIT NO. 91: Minutes of meeting of April 8 and 9,  
15 1970 of Workmen's Compensation  
16 Committee and the Industrial Safety  
17 Directors Committee held in Toronto.

18 THE WITNESS: I don't know how far you  
19 gentlemen wish me to continue in the development of the  
20 brief.

21 MR. DONNELLY: Q. We would like to trace  
22 the brief through to its ultimate destiny or whatever did  
23 happen to it, sir.

24 A. On the 29th of May, 1970 the Secretary  
25 of the Workmen's Compensation Committee sent a second  
26 draft of a letter which was addressed to Mr. B.J. Legge  
27 and this draft was sent to the Workmen's Compensation  
28 Committee members and Industrial Safety Directors  
29 Committee and it said: "Gentlemen:

30 In our meeting held on April 8th and  
31 9th the last item of business dealt  
32 with the proposed brief to the



1 Chairman of the Ontario Workmen's  
2 Compensation Board. The draft, which  
3 was mailed to you prior to that  
4 meeting, has been substantially re-  
5 vised and the second draft is enclosed  
6 for your consideration, comments and  
7 approval.

8 Contained in the draft are a  
9 number of statements as to our under-  
10 standing of the Board's practices  
11 and our allegations of situations of  
12 members' claims experience for which  
13 we have not yet received confirmation  
14 or examples. At the last meeting it  
15 was agreed that before such statements  
16 and allegations can be included we  
17 should be provided with a sufficient  
18 number of examples to substantiate the  
19 Board practice rather than use isolated  
20 cases. If you have specific cases to  
21 support the brief, will you please let  
22 us have a list of them by claim number,  
23 employee's name and the date of the  
24 injury so that this information will  
25 be on hand in case we have a meeting  
26 with the Board."

27 And the second draft was a workover of  
28 the Ford draft which I have submitted and I don't know  
29 whether you want me to read it. I am happy to submit it  
30 as evidence.

MR. DONNELLY: I think if it is filed, sir,



1 it will be sufficient.

2 EXHIBIT NO. 92: Letter to Workmen's Compensation  
3 Committee, Industrial Safety Directors  
4 Committee from Russell C. Fair,  
5 Secretary - Committees, dated May 29/70.

6 THE WITNESS: On July the 24th the  
7 Secretary of the Motor Vehicle Manufacturers' Association  
8 sent a letter again to the Workmen's Compensation Committee,  
9 Industrial Safety Directors Committee, stating, "Gentlemen:

10 Subject: Proposed Brief to W.C.B.  
11 Chairman

12 On June 30, 1970 a delegation of  
13 the C.M.A. Ontario Division Workmen's  
14 Compensation Committee met with the  
15 Chairman, Commissioners and some  
16 senior officials of the Workmen's  
17 Compensation Board of Ontario and a  
18 copy of a summary report of that  
19 meeting is attached for your infor-  
20 mation.

21 As this discussion related  
22 directly to the points raised in our  
23 proposed brief and in respect of the  
24 Board's comments thereto, it would  
25 seem desirable to review our position  
26 on each point. Following discussions  
27 with your Chairmen, a special joint  
28 meeting for this purpose has been  
29 scheduled for Friday, August 7, 1970  
30 at 10:00 a.m. in the Association  
office. If this date is not conven-  
ient please let me know. In the mean-  
time, your prior review of the two





documents in this matter will facilitate discussion at the meeting."

Now you already have the minutes that were attached which were the minutes of the June 30th meeting between certain members of the C.M.A. and the Workmen's Compensation Board. But I will submit the letter from the Secretary of the Motor Vehicle Manufacturers' Association covering it.

EXHIBIT NO. 93: Letter to Workmen's Compensation Committee, Industrial Safety Directors Committee from Russell G. Fair, Secretary - Committees, dated July 24/70.

THE WITNESS: On July the 2nd, I wrote a letter to the Industrial Relations Managers of our plant and a copy to Mr. Hallsworth regarding subject,

"Proposed Brief Re Workmen's Compensation Board Practices.

At the end of February you were sent a copy of the revised brief which we had passed on to the 'ad hoc' committee of the Workmen's Compensation Administrators for consideration prior to their making a presentation to the CMA.

This group met on March 2, 1970 at G.M., Oshawa. Those representing the steel industry wanted to stay with their original brief while the automotive group wished to submit the brief that Ford had rewritten. It was finally decided that those in favour of the original brief would



1 submit it to the CMA and that the  
2 'Ford' brief could be submitted at a  
3 later date to the Motor Vehicle  
4 Manufacturers' Association.

5 The CMA called a meeting of its  
6 Workmen's Compensation Sub-Committee  
7 for April 9, at which time the brief  
8 submitted by the steel industry group  
9 was discussed. It appeared to those  
10 attending that the CMA sub-committee  
11 was reluctant to take any action that  
12 might antagonize the Board and seemed  
13 to be trying to soft-pedal the issue  
14 by suggesting that a select group call  
15 on the Chairman of the Board and  
16 discuss these items. We have heard  
17 nothing further from the CMA.

18 The Workmen's Compensation  
19 Committee and the Safety Directors  
20 Committee of the MVMA have met, re-  
21 viewed and twice rewritten the brief  
22 submitted by Ford.

23 The attached draft letter add-  
24 ressed to Mr. B.J. Legge, Chairman,  
25 WCB is the result of these efforts.  
26 In view of the lack of enthusiasm  
27 demonstrated by the CMA, it is pro-  
28 posed that this letter should be  
29 presented to Mr. Legge during a meet-  
30 ing that will be arranged between him  
and the MVMA's Workmen's Compensation



Committee.

This draft, therefore, is being sent to you for review and we request that you advise us if there is anything in the letter with which you disagree or if you feel there has been some important omissions.

Contained in this draft are a number of statements regarding the Board's preactices which we are challenging. The MVMA Workmen's Compensation Committee have taken the position that before they present these statements to the Board they want specific examples by Claim Number illustrating our charges. Will you, therefore, please advise us of the specific cases which you can produce in support of these allegations.

We would appreciate receiving your comments by July 15, 1970."

EXHIBIT NO. 94:

Letter to Industrial Relations Managers of Ford Motor Co. from Mr. J.M. Carter, dated July 2, 1970.



1 Q. Does your brief at that time still  
2 touch on those points you have named before, sir?

3 A. That is correct, sir. The brief  
4 -- the attached draft letter addressed to Mr. Legge is  
5 the one -- the second draft that I have already submitted.

6 Q. So at that stage you intended  
7 proceeding on this course and you thought the steps  
8 taken by the C.M.A. were ---

9 A. We were not satisfied with those  
10 minutes of the comments on the Board and we felt we  
11 should proceed.

12 Q. Was this particular brief sponsored  
13 solely by Ford at the time?

14 A. No, sir, this was the brief that  
15 in my letter I mentioned had been written and rewritten,  
16 twice revised by the Motor Vehicle Manufacturers  
17 Association Safety Directors Committee.

18 A meeting was held on August 7th at  
19 the Motor Vehicle Manufacturers Association offices  
20 which I attended and the purpose to further consider  
21 the proposed brief to the Chairman of the Ontario  
22 Workmen's Compensation Board on matters of administration  
23 of the Workmen's Compensation Act.

24 "Discussion: The temporary absence of  
25 either Chairman (that is the Chairman  
26 of the Workmen's Compensation and the  
27 Safety Directors Committee). The meeting  
28 appointed Mr. Carter as Chairman pro tem."

29 "Discussion: The report of the June 30  
30 meeting between Board officials and





1 representatives of C.M.A. was reviewed.

2 As this meeting covered many of the points  
3 raised in the proposed brief of M.V.M.A.,  
4 it was decided to alter the original course  
5 of action by separating the points according  
6 to responsibility and corresponding  
7 separately to the Minister of Labour and  
8 the Board Chairman. In the case of the  
9 latter it was suggested that the official  
10 of the Board responsible for the subject  
11 under review, be asked to a meeting wherein  
12 he could be questioned in person.

13 In connection with item (h) - recovery  
14 of overpayments, it was agreed that this was  
15 not of sufficient concern to pursue.

16 The remaining items were assigned res-  
17 sponsibility and priority as follows:

18 Minister of Labour

- 19 1. disablement "arising out of ---".  
20 2. fraud.

21 Workmen's Compensation Board

- 22 1. modified work and rehabilitation,  
23 2. section 22 regulations,  
24 3. appeal structure,  
25 4. local investigation,  
26 5. adjudication procedures.

27 Members agreed to defer any further  
28 action, until the return from vacation  
29 of the Workmen's Compensation Committee  
30 Chairman, Mr. Douglas, so that work  
groups can be assigned to develop each  
point along with support material."



1 ---EXHIBIT NO. 95: Report of meeting held Friday,  
2 August 7, 1970 between Workmen's  
3 Compensation and Industrial Safety  
4 Directors Committee.

5 THE WITNESS: Next, I have the minutes  
6 of the October 20 C.M.A. meeting -- that has already  
7 been filed so I will just pass on.

8 MR. DONNELLY: Q. October 28, was it,  
9 sir?

10 A. October 20th, 1970 meeting.

11 On November 9, 1970 a further meeting  
12 of the Motor Vehicle Manufacturers Association. The  
13 administrative practice of the Board was the second  
14 item raised. The Chairman reported, and the Chairman  
15 in this case would be Mr. Douglas, who had returned  
16 from vacation.

17 "The Chairman reported that the Workmen's  
18 Compensation Committee of the Ontario  
19 Division of the Canadian Manufacturers  
20 Association had met on October 28 as  
21 a follow-up to their meeting with officials  
22 of the Board on June 30. In particular there  
23 was dissatisfaction with the Board's  
24 comments regarding the suggestion to  
25 provide regulations for section 22 of the  
26 Act. Any more details were not presently  
27 available as the report of the meeting had  
28 not been circulated.  
29 Members then reviewed the report of the  
30 special meeting held on August 7."

The minutes have been submitted.

"... and considered the various means of



1 passing on their views and recommendations  
2 to the proper officials. It was decided that  
3 (1) members would document case examples  
4 relating to the subject items referred to  
5 in the August 7 report and forward them  
6 to the Secretary by November 17. A copy of  
7 the cases documented by one member company  
8 was distributed to those present as an  
9 example. Following receipt of these  
10 cases, which members agreed were necessary  
11 to any presentation to the Board, the  
12 Chairman (Mr. Freeman), Mr. Carter and  
13 the Secretary will arrange to personally  
14 contact the Executive Manager of the Board,  
15 Mr. A. G. MacDonald with a view to  
16 ascertaining which top officials of the  
17 Board's operating sections should be  
18 invited to meet with committee members  
19 to supply clarification or information  
20 on certain of the administrative practices  
21 of concern to members. The information  
22 derived from these joint discussions would  
23 be utilized when preparing a final brief  
24 or submission to the Chairman of the Board  
25 as originally planned. On the subjects  
26 judged on August 7 to be matters for  
27 ministerial attention, it was agreed any  
28 action should await completion of the  
29 Board contacts.  
30 On the matters of Board practice ..."



1 This has nothing to do with the subject.

2 The main point of this meeting was the  
3 decision that we would arrange a meeting with Mr.  
4 MacDonald to set some of our points.

5 ---EXHIBIT NO. 96: Minutes of meeting of November 9,  
6 1970 between Workmen's Compensation  
7 Committee and Industrial Safety  
8 Directors Committee.

9 THE WITNESS: On May 26th, 1971 I wrote  
10 a letter again to our Industrial Relations managers,  
11 copy to Mr. Jack Douglas and Mr. Ken Hallsworth.

12 "Proposed Brief re Workmen's Compensation  
13 Board Practices

14 Our communication dated August 12, 1970  
15 contained a report prepared by the  
16 Canadian Manufacturers' Association  
17 summarizing comments made by the Workmen's  
18 Compensation Board at a meeting with the  
19 CMA on June 30, 1970. These comments  
20 were replies to the various complaints  
21 regarding WCB practices raised by a group  
22 of Workmen's Compensation Coordinators  
23 from several companies, including Ford  
24 of Canada.

25 The CMA Workmen's Compensation Committee  
26 reviewed these comments at a meeting  
27 held on October 28, 1970 and decided  
28 to have a further meeting with the  
29 Workmen's Compensation Board where  
30 follow-up was indicated. Consequently,  
on February 12, 1971, three members of  
this committee met with Mr. A. G.  
MacDonald, Executive Manager and Mr.





1 A. Azzarellb, Director of Adjudication,  
2 both of the Workmen's Compensation Board."

3 Now the minutes of that meeting were submitted by Mr.  
4 Gerard.

5 "Attached is a Status Report showing each  
6 of the complaints originally raised,  
7 with summaries of our recommendations,  
8 the comments made by the WCB at the June  
9 30, 1970 meeting, and the comments made  
10 at the follow-up meeting of February 12, 1971.  
11 This Report shows that the Board has not  
12 agreed to the recommendations submitted  
13 except Item #5, "Fraud" and Item #8,  
14 "Modified Work" where the Board has  
15 indicated that changes will be made in  
16 their Forms 6, 7 and 8.

17 On May 31, 1971, a sub-committee of the  
18 Motor Vehicle Manufacturers' Association  
19 Workmen's Compensation Committee (with  
20 representatives from Ford Canada and GM,  
21 Oshawa) will meet with Mr. A. G. MacDonald,  
22 Executive Manager, Workmen's Compensation  
23 Board, to discuss our problem of getting  
24 injured employees to accept modified work  
25 when it is made available to them.

26 Specific compensation cases submitted by  
27 several automotive industry members will  
28 be reviewed with Mr. MacDonald to  
29 illustrate our concerns and to highlight  
30 some of the Board's questionable  
administrative practices.



1 We will advise you regarding the outcome  
2 of this meeting."

3 ---EXHIBIT NO. 97: Letter from J. Carter dated May  
4 26, 1971 regarding "Proposed Brief  
5 re Workmen's Compensation Board  
6 Practices."

7 THE WITNESS: I have here, dated May  
8 31, 1971, a letter which was delivered by hand to Mr.  
9 A. G. MacDonald, Executive Manager, Workmen's Compensation  
10 Board, and attached to it is a summary of a sample of  
11 Workmen's Compensation Board claims.

12 "It has been some time since representatives  
13 of the Motor Vehicle Manufacturers'  
14 Association met with you and we are pleased  
15 to have the opportunity today to present  
16 a subject which is of particular concern  
17 to our members. The subject, which has  
18 been the topic of considerable discussion  
19 in our committee meetings, is modified work  
20 and rehabilitation.

21 One of the major contributing factors  
22 to increasing costs of workmen's compen-  
23 sation is the refusal of recuperating  
24 employees to take modified work offered  
25 by their employers, when they are  
26 physically capable of doing so. In  
27 considering this subject we appreciate it  
28 is difficult for the Board personnel to  
29 determine when a workman has unreasonably  
30 refused to take alternative work offered  
him.

However, automation and other technological



1 advances, along with larger work forces,  
2 allow our industry to develop less strenuous  
3 jobs and programs for identification and  
4 creation of jobs suitable for specific  
5 handicaps, have been introduced. Often  
6 the jobs are modified operations designed  
7 primarily to keep the workman gainfully  
8 employed while he makes an effective  
9 recovery prior to returning to his regular  
10 job. Problems of shifting personnel within  
11 seniority classifications are almost always  
12 encountered. Thus relocation of several  
13 employees is often necessary to accommodate  
14 re-employment of the handicapped worker.  
15 All these efforts are in vain when the  
16 workman refuses to report for work.  
17 It is our experience that the most  
18 effective rehabilitation occurs when the  
19 workman is returned to suitable work as early  
20 as practicable. Permanently handicapped  
21 employees generally recognize the efforts  
22 made on their behalf and cooperate by  
23 accepting suitable work made available to  
24 them by their employers. The same  
25 success is not achieved with the temporarily  
26 handicapped workman who is not as strongly  
27 motivated to return to work within a  
28 reasonable period. One important factor  
29 in this lack of motivation is that  
30 income-tax-exempt compensation benefits are  
almost at a par with net income.



1 We believe the following two points  
2 should be given additional attention by  
3 the Board personnel:

4 (a) The Board personnel seem to be  
5 unaware of the efforts of industry in  
6 providing suitable work for the temporarily  
7 disabled workman and appear to accept without  
8 question, the opinions of the workman and  
9 his family doctor.

10 (b) The medical profession frequently  
11 does not attempt to encourage the workman  
12 to return to modified work, particularly  
13 when a more rapid and complete rehabilitation  
14 is likely with such activity. At times  
15 some doctors seem to disregard industry's  
16 efforts to provide modified work.

17 These problems can be overcome. In larger  
18 industries the industrial physician is  
19 ideally equipped to deal with this situation.

20 In a great many cases he has intimate  
21 knowledge of the medical, employment and  
22 personality background of the workman. He  
23 has a wide source of reliable information  
24 pertaining to the background of each case.  
25 The same in depth knowledge is not always  
26 available to the family physician but  
27 could be if he was encouraged by the Board  
28 to enquire of the industrial physician.  
29 Our experience shows that while the  
30 industrial doctor may examine a workman,  
render treatment, recommend a job change





1 and observe the workman's job performance,  
2 progress is most often negated by a family  
3 doctor whose decision to send the workman  
4 home may have been reached only on the basis  
5 of a routine examination. Additionally,  
6 situations arise where employees misrepresent  
7 to the doctor the availability and nature  
8 of suitable work consistent with the  
9 claimant's particular disability. Seldom  
10 will the Board accept the industrial  
11 doctor's recommendations if they conflict  
12 with those of the family doctor. A workman  
13 is permitted to leave the care of the  
14 industrial doctor and seek treatment from  
15 his family doctor who may be willing to  
16 let him off work to go on compensation.  
17 Where there is a conflict of opinion  
18 between the employee's doctor and the  
19 industrial doctor, the employer may ask the  
20 Board to require the employee to have a medical  
21 examination by a doctor designated by the  
22 Board. However, the procedure sometimes  
23 results in extensive delays.

24 We recommend that more emphasis be placed  
25 on the availability of modified work by  
26 revising some of the Board's report forms  
27 as follows:

28 (a) Form 7 - should provide space wherein  
29 the employer can indicate that modified  
30 work is available for the workman.



(b) Form 8 - should be amended to include the following questions:

(i) have you considered the patient's ability to perform modified work?

(ii) have you been in contact with the employer or employer's physician regarding the availability of modified work?

(iii) have you discussed modified work with the patient?

(iv) were offers of modified work made by the employer?

(c) Form 156 - should be amended in the same manner as is recommended for Form 8.

We appreciate your taking the time today to receive our views on this important subject. If you feel, as we do, that some mutual benefit can be derived by the appearance of representatives of the Board at a combined meeting of the Workmen's Compensation Committee and Industrial Safety Directors' Committee of M.V.M.A., we would be pleased to so arrange."

There are ten specific claims listed with the claim number and the date of accident, and they were submitted in support of some of the comments regarding making work available to -- modified work for employees that had disabilities. This then was sort of the fruition of all that had gone on before. I have gone through the Board and Bruce Legge and so on, and then following the C.M.A.'s meeting with the Workmen's Compensation Board



1 and having dealt with these matters rather in a narrow  
2 way or even a broad brush way, we started to zero in  
3 on one of these items and really, as I say, sock it to  
4 them with examples. And this is the letter that we  
5 prepared and delivered to Mr. MacDonald along with the  
6 people who attended. I don't have a list of the names  
7 here, but from memory there was Mr. Russell Fair, the  
8 Secretary of the Motor Vehicle Manufacturers Association,  
9 Ray Hatter from General Motors, Stan Freeman and myself;  
10 that was it.

11 "It has been some time ..."

12 MR. DONNELLY: Excuse me, sir, excuse  
13 me, Mr. Chairman, is it possible to file the documents,  
14 sir, rather than read them?

15 THE CHAIRMAN: If I may mention, we are  
16 not so much interested in the contents of these briefs,  
17 it is the intent and their association with the penalty  
18 remissions.

19 THE WITNESS: The intent is that this  
20 document shows that there was movement that went forward  
21 from the original ad hoc committee through the M.V.M.A.

22 MR. DONNELLY: Q. I think you made that  
23 point. You brought us up to -- was that May 31?

24 A. May 31 of 1971.

25 ---EXHIBIT NO. 98: Letter to Mr. A. G. MacDonald from  
Russell C. Fair dated May 31, 1971.

26 MR. DONNELLY: Q. And in point of time  
27 then is there anything subsequent to that you wish to  
28 file?

29 A. The only other document would be  
30 the Workmen's Compensation Board letter which they sent



1 to us as a result of our efforts meeting with them, and  
2 they did send us a letter subsequently.

3 Q. Was that the culmination of your  
4 efforts over this period of time?

5 A. That was the end.

6 Q. The end of the story.

7 May that be filed also, sir?

8 ---EXHIBIT NO. 99: Letter to Mr. Russell C. Fair from  
9 Mr. Wm. Kerr dated June 14, 1971.

10 MR. DONNELLY: Q. Are you ready to go  
11 on, sir?

12 A. Just one more document, sir, and  
13 that is the letter that I got from the Board dated  
14 June 14th, 1971.

15 Q. The point of the presentation, sir,  
16 would appear to me that rather than -- you are attempting  
17 to demonstrate and rather than abandoning / criticism  
18 you proceed with it perhaps more judiciously in your  
19 own opinion and more vigorously with perhaps a different  
20 technique of establishing priorities and zeroing in on  
21 certain points, but nonetheless you are not in any way  
22 abandoning it or forsaking the project?

23 A. That is my point, sir, exactly.

24 Q. And in proof thereof you demonstrate  
25 your position over an interval of time with these various  
26 documents stating your position as time went on?

27 A. That is correct, sir.

28 Q. Delineating your efforts along this  
29 time?

30 A. Yes.

Q. Is that correct?





1 Now there is one other matter, sir. I  
2 suppose one person might read the Globe and Mail of  
3 March 11, 1972 and see the byline "Ford and GM scuttle  
4 lobby." Without commenting on either the word "scuttle"  
5 or "lobby", there might be some inference in some minds  
6 that that was a deliberate attempt by Ford to end or  
7 terminate or harm this group. Could you make any comment  
8 about that, sir?

9 A. I would be very happy to. The  
10 statement that I asked to submit, the very first statement  
11 that was made by Mr. Hallsworth on March 29th specifically  
12 refers to that question, and I can only repeat what I  
13 have said to the press on several occasions when interviewed  
14 that there was absolutely no truth or substance in that  
15 allegation whatsoever.

16 Q. This next question may also be  
17 covered by the statement and if so you can just tell me.  
18 Was there any ulterior motive at all in Ford's not  
19 endorsing that original ad hoc brief?

20 A. No, sir. I hope I have demonstrated  
21 from rather -- actions speak louder than words, by the  
22 vigorous way we have continued on this thing and we  
23 certainly didn't intend to abandon any decisions of the  
24 Workmen's Compensation Board.

25 Q. On another point there, perhaps as  
26 a distinction that it might be said that you didn't  
27 attempt to abandon the criticism but perhaps you could  
28 be accused of trying to scuttle the lobby. You see,  
29 I think there might be a distinction.

30 A. Well at the meeting in Oshawa, we



1 certainly produced a counter revised draft, and if the  
2 "lobby" could agree that to incorporate our brief, the  
3 revised brief of Ford as the basis of the document  
4 more using /moderate language than the original colourful  
5 language then we would have continued throughout. We  
6 were prepared to go through the C.M.A. with the full  
7 support of the Ford Motor Company.

8 Q. Your judgment was that it had a  
9 better chance of being effective if it were done your  
10 way; is that what you are saying?

11 A. That is my quote and I think it was  
12 shown in the reaction of the C.M.A. when they read the  
13 brief. Their reaction was exactly the same as ours that  
14 they didn't believe that that kind of language would  
15 help the cause.

16 Q. Again this next point may be  
17 covered by your brief, but was there any attempt by  
18 the Ford Motor Company to seek or curry favour in any  
19 way with the Board relative to any matters, be it  
20 penalty assessments under Section 86 or anything else?

21 A. Certainly none at all, sir.

22 Q. Was there any connection whatever  
23 between Ford's position throughout the ad hoc committee  
24 proceedings and their own independent relative to curry  
25 favour and changing assessments and appeals or anything  
26 of that nature?

27 A. The only action we took was directly  
28 in accordance with the provisions for appealing assessment  
29 which we did do, and in accordance with the laid down  
30 administrative procedures.



1 Q. Was there any connection between the  
2 fact of the assessments on the appeals and the course  
3 that you took in leaving the ad hoc position and continuing  
4 on your own?

5 A. No connection whatsoever.

6 MR. DONNELLY: Maybe the Committee members  
7 have questions for you.

8 THE CHAIRMAN: Mr. Miller?

9 MR. MILLER: I think we have established  
10 the fact that you continued to press on after you  
11 received your letters so I won't ask my questions in  
12 consideration of that.

13 Is it true that Ford Motor Company  
14 received levies under Section 86(7) several years in  
15 a row rather than just one isolated incident?

16 THE WITNESS: Ford Motor Company to my  
17 knowledge have received two assessments, one for 1968  
18 which was two years prior to the one for  
19 1970, both of which were reported  
20 in the paper.

21 MR. MILLER: Do you know of any measures  
22 apart from routine appeal procedures that you used to  
23 win your appeal?

24 THE WITNESS: Do you mean any measures  
25 that we took in the plant?

26 MR. MILLER: No, not in the plant, no,  
27 I am talking about in your appeal procedures.

28 THE WITNESS: We presented a brief to  
29 the review committee to state our case, that what we were  
30 doing and the kind of programs we were taking.



1 MR. MILLER: Perhaps you're not under-  
2 standing what I'm getting after, I'm talking about the  
3 appeals procedure and because the newspaper says you used  
4 some kind of pressure, some kind of influence?

5 THE WITNESS: No, sir.

6 MR. MILLER: Why did you feel you should  
7 launch an appeal if you had a worse than average accident  
8 history?

9 THE WITNESS: Certainly the appeal -- the  
10 assessment is a mighty big assessment, in terms of  
11 \$260,000 and I would say maybe if our plants were broken  
12 down and in bad shape, maybe we would say that we were  
13 perfectly -- we should be penalized and take our penalty  
14 but we felt that our plants, -- we have had excellent  
15 ratings from the I.A.P.A. regarding conditions of our  
16 plants, regarding the physical conditions of our plants,  
17 as far as that is concerned. We have many, many safety  
18 programs and we felt we are doing our very best to  
19 improve our safety statistics; that a penalty isn't going  
20 to change the situation because we are doing everything  
21 we possibly could to improve the situation and we asked  
22 the Board and the I.A.P.A. if they could tell us anything  
23 that we could do or that we should be doing which we are  
24 not doing in order to help us to improve our safety  
25 statistics.

26 MR. MILLER: From your own review of your  
27 accident history then were the levies caused by accidents  
28 or the type of thing that you discuss under Section 86(7)  
29 disablement?

30 THE WITNESS: Certainly there are a mixture.





1 MR. MILLER: In your particular case?

2 THE WITNESS: Well I think we have cases  
3 where the injuries -- where the rather big assessments  
4 were resultant from -- arising out of the nature of  
5 employment more so than specific accidents, but I haven't  
6 the breakdown as to how many of the injuries or the  
7 claims paid were in that category.

8 MR. MILLER: Has your basic rate for your  
9 industry been increasing very dramatically recently?

10 THE WITNESS: I think Mr. Green could  
11 answer that better than I can. I have been away from  
12 it for a while, but I believe when I first came in the  
13 safety side of the business in 1966 we were paying 55¢  
14 per \$100 of assessable payroll and it is now 85, but I  
15 think it has been 85 for the last two or three years.  
16 That is as far as our group is concerned, the group on  
17 w hich we are rated. It has gone up from 55 to 85.

18 MR. MILLER: Now you have seen in the  
19 papers that it was alleged that General Motors was going  
20 to receive a \$300,000 penalty. You have heard it denied  
21 by a number of people that the company involved was G.M.  
22 Do you know what company it was?

23 THE WITNESS: No, sir, I don't.

24 MR. MILLER: That is all, sir.

25 THE CHAIRMAN: Mr. Good?

26 MR. GOOD: Yes. The original meeting of  
27 Ford of Canada -- I believe Mr. Rhodes was your represent-  
28 ative there -- and the various industries of the eight  
29 original were to write certain portions of the brief and  
30 we were told that Ford was responsible to write the section



1 on adjudication; is that correct?

2 THE WITNESS: I believe that is correct.

3 MR. GOOD: Was that written by Mr. Rhodes?

4 THE WITNESS: I don't really know. You  
5 can ask Mr. Rhodes.

6 Yes, he said it was.

7 MR. GOOD: It was written by Mr. Rhodes.

8 He used language such as this,

9 "We believe, however, that the Board  
10 has become so concerned with the  
11 improvements in the area of initial  
12 adjudication that accuracy of adjudicat-  
13 ion has suffered."

14 He says, "We of the industry feel that quality  
15 has been sacrificed for quantity and  
16 lack of success of the appeal system  
17 dramatizes the necessity of lack of  
18 fair and adequate adjudication."

19 And he goes on to say that, "...large industries have  
20 learned that only by strongly out-  
21 lining their objections to some of  
22 the questionable short term claims  
23 can they be assured of a fair decision."

24 THE CHAIRMAN: Mr. Good, would you put your  
25 question to the witness?

26 MR. GOOD: Well, I have to substantiate  
27 my point.

28 THE CHAIRMAN: The Committee have that  
29 material. Put your question, please.

30 MR. GOOD: All right. Do you find that this



1 language was originated from Ford had been modified in  
2 the final brief?

3 THE WITNESS: I believe it was.

4 MR. GOOD: On whose direction was it  
5 modified?

6 THE WITNESS: The point I would like to  
7 make is that the ad hoc committee who are a group of  
8 people from the plant working directly on claims and  
9 working directly with Workmen's Compensation Board, they  
10 have one point of view, but when we start getting into  
11 writing a brief that is going to be presented to a  
12 Minister of Labour the same approach isn't necessarily  
13 effective, and while we didn't inhibit Mr. Rhodes and  
14 what he wanted to write as his contribution to the brief  
15 as everybody else contributed, when it came to the editing  
16 of it then we made changes there and seemed to make changes  
17 throughout the rest of the brief.

18 MR. GOOD: When you say we didn't prohibit,  
19 you mean you personally?

20 THE WITNESS: No, sir, I am talking about  
21 the company. As I indicated earlier, at the initial  
22 stage we said, "Fine, you fellows want to go ahead with  
23 this thing, you go ahead and just keep us informed until  
24 you get to the point where you have something to show us."

25 MR. GOOD: Well I find just what short  
26 time I have had to look through the brief that perhaps  
27 the most critical section was written by Ford, by a  
28 representative from Ford.

29 THE WITNESS: Well I am embarrassed  
30 if that is the case. If that is the case you could be



Carter,

1 right, sir.

2 MR. GOOD: And on the next page you find  
3 Ford is one of the objecters to the critical tone of the  
4 brief, even accused the Workmen's Compensation Board of  
5 paying compensation to malingerers.

6 THE WITNESS: I didn't -- until you raised  
7 it I didn't know what section Mr. Rhodes had participated  
8 in, sir.

9 MR. GOOD: Now to me there is a complete  
10 reversal here, somewhere along the line, from Ford's  
11 original stand and what happened a little later. Now I  
12 would like to go on to -- you have given an answer that  
13 it was the corporation that objected to it. Can you  
14 give me any one specifically -- you said, "No, we cannot  
15 support that brief in its original stand." Now, from  
16 whom would that decision come?

17 THE WITNESS: I made the original recommend-  
18 ation.

19 MR. GOOD: You made the original recommend-  
20 ation that it not be supported?

21 THE WITNESS: In the language the brief  
22 was written in, but I had made the recommendation that we  
23 would not put our corporate name to that document.

24 MR. GOOD: And were you aware at that time  
25 that this part -- you say you were not aware?

26 THE WITNESS: I saw it in the brief.

27 MR. GOOD: Were you aware that this part  
28 had originated from Ford, from Mr. Rhodes?

29 THE WITNESS: No, I didn't.

30 MR. GOOD: You were not aware of that?





1 THE WITNESS: No, but I knew that Mr.

2 Rhodes had taken a part in the brief, but I wasn't check-  
3 ing as to what part he supported, I simply read the whole  
4 brief and I reiterate that my views were more than con-  
5 firmed by the reaction of another group of people in the  
6 C.M.A. who had exactly the same comments that I had made  
7 to my management saying that the language was not  
8 appropriate.

9 MR. GOOD: Now when was the date of the  
10 assessment for \$260,000?

11 THE WITNESS: The special assessment  
12 under 86(6a) at that time in 1966, '67 and '68 was  
13 against the Oakville assembly plant and the  
14 Ontario truck plant, two plants, for a total of \$260,206.06  
15 on November 2nd, 1969.

16 MR. GOOD: November 2nd, 1969; and the  
17 appeal was launched, I believe, about a month later?

18 THE WITNESS: The Ford appeal of the  
19 assessment of the Workmen's Compensation Board, Treasurer's  
20 Department on 12/2/69.

21 MR. GOOD: It was during the following  
22 spring -- you pulled out of the original brief in  
23 March -- I believe the date of the meeting Mr. Gerard  
24 gave us was March the 2nd and at this particular time  
25 your appeal was still being considered; is that correct?

26 THE WITNESS: That is correct.

27 MR. GOOD: Your appeal was still being  
28 considered and then it was -- you lost the appeal in  
29 May; is that correct? You were notified of having lost  
30 it?



1 THE WITNESS: On May the 13th, 1970 I  
2 received a letter from the Treasurer's Department stating  
3 that our appeal against the assessment had been denied  
4 by the Treasurer's Department.

5 MR. GOOD: And then your appeal began?

6 THE WITNESS: That is correct.

7 MR. GOOD: With new evidence, or was it  
8 some other matter?

9 THE WITNESS: We appealed it again with  
10 further write-up and with further action that we were  
11 proposing since the original notice arrived.

12 MR. GOOD: Now in the process of your  
13 appeal you mentioned that the brief was submitted to  
14 the review committee. By whom was that brief prepared?

15 THE WITNESS: Well, following the appeal  
16 of the special assessment -- by the Treasurer's Department  
17 -- we then appealed to the review committee on June the  
18 12th.

19 MR. GOOD: I'm talking about the 1st of  
20 June.

21 THE WITNESS: The first appeal in  
22 December was a written appeal.

23 MR. GOOD: And by whom was that brief  
24 prepared?

25 THE WITNESS: By whom was it prepared?

26 MR. GOOD: Yes, both of them.

27 THE WITNESS: The appeal was prepared by  
28 Ford Motor Company, primarily by the two industrial  
29 relations managers of the two plants which were under  
30 this special penalty assessment.



1 MR. GOOD: What part did you play in the  
2 presentation for the appeals?

3 THE WITNESS: I spent time with both of  
4 the industrial relations managers in their preparation  
5 of the appeal, of the material, and we discussed it, put  
6 it finally documented together.

7 MR. GOOD: So it could be said that you  
8 had a part both in the rejection of the brief and in the  
9 presentation of the appeal for your assessment?

10 THE WITNESS: I worked in both areas of  
11 the appeal because of my position with the company.

12 MR. GOOD: Who redrafted Ford's brief that  
13 went to M.V.M.A.; was it you, yourself, Mr. Carter?  
14 for

15 THE WITNESS: Actually/the first redraft  
16 that was made I think I said on those two dates in April,  
17 I wasn't there and Mr. Rhodes was -- attended in my  
18 absence and that was when the first rewrite was made on  
19 the draft by the combined members of the Motor Vehicle  
20 Manufacturers' Association Safety Directors and the  
21 Workmen's Compensation Committee members.

22 MR. GOOD: And with a little enlightenment  
23 from you then, perhaps Mr. Rhodes had a more modified  
24 view of the business?

25 THE WITNESS: I don't know if that's the  
26 case or not.

27 MR. GOOD: We are here to link two items  
28 together and we are exploring that particular aspect of  
29 it.

30 We have established that your efforts with  
the ad hoc committee as we call it, when they did cease



1 you then pursued two separate lines, one, through the  
2 Motor Vehicle Manufacturers' Association and you were  
3 also involved with the C.M.A.; is that correct?

4 THE WITNESS: No, I was not involved with  
5 the C.M.A. personally.

6 MR. GOOD: With the Compensation Committee.  
7 You were not?

8 THE WITNESS: No, I'm not a member of  
9 the C.M.A. Compensation Committee.

10 MR. GOOD: But parts of your brief went  
11 there or the original ad hoc brief went there?

12 THE WITNESS: The ad hoc committee brief  
13 did go through the C.M.A., yes.

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THE WITNESS: That is correct, from a



1 corporate level.

2 MR. GOOD: All right, thank you.

3 THE CHAIRMAN: Mr. Deans?

4 MR. DEANS: Thank you. I have just been  
5 informed we have got to finish with this witness today  
6 and I haven't said a word yet.

7 MR. MERWIN: May I interrupt for one minute  
8 to confer with Mr. Carter?

9 MR. DONNELLY: Yes.

10 MR. DEANS: Mr. Carter, on what basis are  
11 you appealing the new levy?

12 THE WITNESS: I beg your pardon?

13 MR. DEANS: I assume you are appealing the  
14 new levy against the company.

15 THE WITNESS: Sir, I didn't bring it with  
16 me, but ---

17 MR. DEANS: I don't want you to pretell  
18 it.

19 THE WITNESS: May I explain something?

20 MR. DEANS: Yes.

21 THE WITNESS: That I am no longer in that  
22 area, I am now with employee benefits and this occurred  
23 after I left my other job. I have had nothing to do  
24 with the preparation of this second -- the new appeal  
25 to the 1970 assessment, I know nothing about it. I have  
26 seen it, it weighs about ten pounds.

27 MR. DEANS: You said in one part of the  
28 brief that it was an exercise in futility, generally  
29 speaking, for the companies to proceed through the appeals  
30 system; this was in the initial brief, the one from which



1 you extracted yourself. Did you believe that statement  
2 to be true?

3 THE WITNESS: I am really not close enough  
4 to answer that question because I don't get involved with  
5 plant personnel who go before the Board which hears  
6 them. All I do is get some indications of frustration  
7 from people like Al Rhodes <sup>that</sup> /it does seem to be awfully  
8 few and far between when the company is successful  
9 in its appeals.

10 MR. DEANS: It just struck me in considering  
11 the success you had in appealing that \$260,000. that you  
12 might not feel that way about the appeals system, but in  
13 fact it seems to work quite well if you are able to come  
14 up with reasonable arguments. Would you think that  
15 is true?

16 MR. DONNELLY: Was that in reference to  
17 the same appeal system or was it to the employer-employee  
18 system?

19 MR. DEANS: It goes to the same appeal  
20 system.

21 THE WITNESS: I understand it is the same  
22 appeal structure that you go through.

23 MR. DEANS: Looking at the two things and  
24 recognizing that you are presently in the process of  
25 appealing and having remarkable success on the first  
26 occasion, that would seem to belie the statement that  
27 the appeal system does not work as favourably for the  
28 company as it does for the employee. I can't help but  
29 wondering, the company is appealing at this point an  
30 assessment of over \$500,000. For the last years or the



1 four years preceding the imposition of that particular  
2 levy the company's record was not very good, it couldn't  
3 have been very good. It may be ---

4 THE WITNESS: Based on the last three years?

5 MR. DEANS: Yes, based on the time -- the  
6 two years immediately preceding the year in which the  
7 appeal was levied and then again three years go by and  
8 another levy is assessed, another assessment is made.  
9 Over that six year period there seems to have been a  
10 certain laxness in the operations or else the matters  
11 that are considered by the Board to be of importance are  
12 beyond the company's control, one or the other, and I  
13 wonder if you would care to tell me which of the two it  
14 is.

15 THE WITNESS: When you say beyond the  
16 company's control, that is a hard one to answer, but I  
17 would like to point out that in one of our appeals when  
18 we got our appeal upheld, we were told that the I.A.P.A.  
19 who go into the plant when a company is under a special  
20 assessment and has to audit the company's safety programs  
21 and its motivation, but the I.A.P.A. have reported the  
22 physical conditions in our plant are excellent. In  
23 April of 1969, Mr. William Bogey who was at that time  
24 a senior investigator with I.A.P.A., came in and did  
25 an in depth study of our operations at Oakville and his  
26 conclusion in his report was that there was little he  
27 could suggest as far as guarding machines or purifying  
28 the air and things like that which would help to prevent  
29 accidents. He said the physical conditions were excellent.

30 MR. DEANS: Do you consider that perhaps





1 the pressures of continuous production play a role in  
2 the numbers of accidents that occur?

3 THE WITNESS: I think that is possible.  
4 We feel that there is some evidence that overtime, that  
5 when there is overtime that our accident frequency goes  
6 up.

7 MR. DEANS: It could be fatigue?

8 THE WITNESS: It could be fatigue, that's  
9 possible. We don't really understand that phenomenon but  
10 it seems to be going up, when our plants go into overtime  
11 that our accident frequency goes up.

12 MR. DEANS: And that is being studied, I  
13 presume?

14 THE WITNESS: Well, there are two schools  
15 of thought on that; one is fatigue and the other one is  
16 that because they are getting overtime and lots of money  
17 then they don't mind if they lose some time. I suspect  
18 it is the first, it is fatigue.

19 MR. DEANS: I would like to think it was  
20 too. I don't know of many people who would consciously  
21 allow themselves to create an accident situation for fear  
22 that they might chop their head off or something.

23 THE WITNESS: Right.

24 MR. DEANS: The whole matter of the I.A.P.A.  
25 has always intrigued me. How are people appointed to the  
26 I.A.P.A.?

27 THE WITNESS: Sir, I am afraid I am not  
28 competent to answer that one. I don't know, except that  
29 the I.A.P.A. reports to the Workmen's Compensation Board,  
30 I understand through Mr. Draper, that is all I know



1 from the organization structure.

2 MR. DEANS: I am correct in my assumption  
3 that you knew nothing about the \$300,000 or better than  
4 \$300,000 levy that was reported to have been going to  
5 be levied against a company in the Province of Ontario?

6 THE WITNESS: That is absolutely correct,  
7 sir.

8 MR. DEANS: I would be correct in assuming  
9 that you did not decide to soft pedal, to some extent,  
10 your brief to the Workmen's Compensation Board on the basis  
11 that you had an appeal before them and didn't want to  
12 ripple the waters?

13 THE WITNESS: No, sir, the thought never  
14 occurred to me.

15 MR. DEANS: I didn't think it would but I  
16 just wanted to ask.

17 And I would be correct in assuming that  
18 you would have continued even beyond the date of the last  
19 letter to correspond with the Board about changes that  
20 you think they ought to make?

21 THE WITNESS: No, sir, I haven't.

22 MR. DEANS: Or the company, I'm sorry. By  
23 "you" I don't mean you personally but the company.

24 THE WITNESS: The M.V.M.A. Safety Directors'  
25 Committee is still active and is still meeting. I don't  
26 know what they have been doing in the last six months,  
27 sir, because I am no longer associated with that activity.

28 MR. DEANS: Well I want to say that I  
29 support your position with regard to the reclaiming of  
30 overpayments.



1 I have a lot of other questions, believe  
2 me.

3 THE CHAIRMAN: Mr. Gaunt, have you a  
4 question?

5 MR. GAUNT: I just had one point,  
6 Mr. Chairman.

7 Mr. Carter, did your company pay the  
8 \$260,206 ?

9 THE WITNESS: No, sir.

10 MR. GAUNT: You didn't pay it?

11 THE WITNESS: No, we didn't pay it, no.  
12 I heard Mr. Gerard's evidence but in our case we didn't  
13 pay it, we appealed it.

14 MR. GAUNT: And this is normal practice  
15 for the company when you undertake an appeal; you don't  
16 pay?

17 THE WITNESS: We don't have that number of  
18 them, frankly, but the two that I am aware of, we -- in  
19 both cases we didn't pay it.

20 MR. GOOD: Do you expect to pay interest?

21 THE WITNESS: I don't know what the procedure  
22 would be. I would rather suspect we would. I think  
23 Mr. Graaves could answer that one.

24 MR. GOOD: We will get the answer tomorrow.

25 MR. GAUNT: That is all, Mr. Chairman.

26 MR. STOKES: I have just got one brief  
27 question. You say that the submission or the brief that  
28 would have gone forward from the "ad hoc" committee  
29 was much too emotional and subjective and then you say  
30 you didn't want to be associated with it and then you said



1 you disassociated yourself from the CMA brief because it  
2 was soft pedalling the issue too much, so that meant that  
3 you sort of fell between two chairs?

4 THE WITNESS: Well, frankly we did feel,  
5 and it was Mr. Gerard's feeling, that <sup>in</sup> the presentation  
6 as made to the Workmen's Compensation Board of those  
7 issues, all the arguments hadn't been brought forward and  
8 they hadn't made strong presentations of actual cases  
9 which would have supported those arguments. Instead of  
10 being involved in a discussion we felt it could have been  
11 more effective if they had actually asked for and presented  
12 specific examples of the type of thing they were concerned  
13 with and that's why we said we would go ahead on that  
14 basis and we did.

15 MR. STOKES: So you felt that the original  
16 brief, Mr. Carter, was too bitter a pill to swallow?

17 THE WITNESS: There was nothing wrong with  
18 the original brief. My letter to Mr. Scott indicated  
19 we certainly agreed with all the criticisms and the point was  
20 that we just couldn't buy the language.

21 THE CHAIRMAN: That completes our questioning  
22 of this witness?

23 Thank you, Mr. Carter. You may be excused  
24 and thank you very much for your contribution this  
25 afternoon.

26 MR. DONNELLY: Are these witnesses excused  
27 in the sense that they may leave now?

28 THE WITNESS: We don't have to hold ourselves  
29 available for recall?

30 MR. DONNELLY: I suppose you would be





1 available if we needed you?

2 THE WITNESS: I could come down.

3 THE CHAIRMAN: We are adjourned until  
4 tomorrow morning at 10:00 o'clock.

5  
6 --- Upon adjourning at 6:05 p.m.

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8  
9 CERTIFIED CORRECT:

10  
11 REPORTER *Walter E. Evers*

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